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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 4 May 2003 from the Deputy Permanent Representative of Norway to the United Nations addressed to the Chairman of the Committee

On instructions from my Government, I have the honour of enclosing herewith Norway's report on steps taken to implement the measures imposed by paragraph 4 (b) of Security Council resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002), as requested under resolution 1455 (2003) (see annex).

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Wegger Christian **Strømmen**
Ambassador
Deputy Permanent Representative

03-38693 (E) 120603

Annex to the letter dated 4 May 2003 from the Deputy Permanent Representative of Norway to the United Nations addressed to the Chairman of the Committee

I. Introduction

1. Please provide a description of activities, if any, by Usama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends

Norway takes part in the broad international effort to fight terrorism and has contributed militarily as well as politically to this end. Norway has a high level of preparedness for any activities by Al-Qaida, Usama bin Laden and their associates. The specific threat level posed to the country is assessed continuously in close co-operation with our allies.

On May 21 2003 the Al-Jazeera television channel broadcasted an audiotape with a statement from a person, who is allegedly identical with Ayman al-Zawahiri, considered to be the deputy of Usama bin Laden. The statement included clear and direct threats of terrorist attacks against Norway and Norwegian interests abroad, as well as three other countries. The statement has led to more stringent attention on certain Norwegian interests abroad, where the current threat situation is considered as high.

After a consolidated evaluation, the threat level within Norway is not considered to be substantially increased. Alertness is however intensified around potential targets.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

Norway implemented Security Council resolutions 1267, 1333 and 1390 by regulations laid down in Royal Decree of 22 December 1999, later amended 19 January 2001 and 18 January 2002, as will appear in the attached copy of the regulations. These regulations were laid down pursuant to the enabling Act of 7 June 1968 No 4, relating to the implementation of binding resolutions adopted by the United Nations Security Council.

The Banking, Insurance and Securities Commission (Kredittilsynet) has issued guidelines to all banks and financial institutions regarding the obligation to freeze assets and report suspicious transactions. Transactions suspected to fall within these categories are to be reported to the National Authority for Investigation and Prosecution of Economic and Environmental Crimes (ØKOKRIM). Should a financial institution suspect that a transaction is linked to any listed individual or entity, the institution shall immediately and of its own motion forward any such information to ØKOKRIM. Furthermore, the financial institution is required, at the request of ØKOKRIM, to provide all necessary information concerning the suspected offence. At such an early phase of the investigation, there is no requirement to inform the customer or third party of the actions being taken.

The Banking, Insurance and Securities Commission (Kredittilsynet) will regularly conduct on-site inspections to monitor the finance sector and to ensure that all regulations are fully complied with. The main focus of the guidelines issued by the Commission is to raise the awareness among employees in the finance sector in Norway.

In addition, the Director General of Public Prosecutions (Riksadvokaten) has issued guidelines to all police departments and officers on how to deal with suspected financing of terrorism. The relevant national authorities regularly hold meetings to co-ordinate and implement measures to combat terrorism.

The legislation adopted to implement Security Council resolution 1373 forms an integral part of the national legislative framework to suppress international terrorism. A bill to establish effective legislative measures against acts of terrorism and the financing of terrorism was passed by the Parliament (Stortinget) () on 17 June 2002 and roval assent was given on 28 June 2002. The amendments took effect immediately. In addition, other relevant legislation has been reviewed to ensure that the requirements of resolution 1373 are fully met.

The new legislation is described in detail in Norway's report dated 8 July 2002 to the CTC http://www.un.org/Docs/sc/committees/1373/. In brief, the legislation makes it a serious criminal offence to commit or to directly or indirectly finance terrorist acts, and requires that Norwegian authorities immediately freeze any assets or funds belonging to any person or entity suspected of such acts, as set out in resolution 1373. It also fulfils the relevant requirements of the 1999 United Nations Convention for the Suppression of the Financing of Terrorism.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

No specific problems have been encountered in practice. However, two general observations can be made. The List contains a large number of names and aliases, where the spelling may be subject to variations, and where it may be time consuming to ascertain whether a particular name is actually on it. There may be scope for improvements with regard to making the List more operational with regard to control measures by enforcement authorities. Consideration may inter alia be given to ways to ensure a more appropriate alphabetical listing e.g. by nationality, which may allow for swifter electronic or manual searches.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

Following the designation of the group Ansar al-Islam 24 February 2003 on the 1267 Committee's List, Norwegian authorities implemented immediate freezing measures towards the group, as well as one individual who resides in Norway, also known as Mullah Krekar. The legal grounds for the freezing measures against Mullah Krekar were that he in previous formal statements to the Norwegian authorities acknowledged his position as leader of the group Ansar al-Islam and as such could be unequivocally identified as associated with the group. The pursuant investigation led to the immediate freeze of one bankaccount under his disposal. The amount frozen was however of limited significance and amounts to approximately USD 1000 on a bank deposit account belonging to the above-mentioned person.

The Director General of Public Prosecutions (Riksadvokaten) has ordered initiation of criminal investigations against the said individual. The purpose is to establish whether he was involved in terrorist or other criminal acts and, if so, to prosecute him under the relevant Norwegian legislation. He was detained 21 March 2003, but was released 2 April 2003 pursuant to court orders. After appeals the latter decision was upheld by the Supreme Court on 9 April 2003. The criminal investigation is continuing.

Independently of the above, the Norwegian immigration authorities have undertaken a consideration of the said person's refugee status and possible expulsion.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

The alleged above-mentioned leader of the group Ansar al-Islam resides in Norway and is currently under criminal investigation.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No such proceedings have been initiated.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

Reference is made to the description under questions No. 4 and 5 above.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

Norwegian authorities have not encountered any such activities inside the country and no specific action has been deemed necessary. It is assumed that legislation in force plays a preventive role in this regard.

9. Please describe briefly:

- *the domestic legal basis to implement the asset freeze required by the resolutions above;*
- *any impediments under your domestic law in this context and steps taken to address them.*

Reference is made to the description of the legal framework under question No. 2 above. The Norwegian authorities have not encountered any impediments under our domestic law in implementing the resolutions.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The Banking, Insurance and Securities Commission (Kredittilsynet) is the governmental body responsible for the distribution of lists and other information to Norwegian financial institutions pursuant to United Nations Security Council resolutions 1267, 1333 and 1390. The Commission receives this information from the Ministry of Foreign Affairs. As mentioned above under item 1, Norway has implemented the Security Council resolutions 1267, 1333 and 1390 in national legislation.

Norwegian financial institutions are upon receipt of the information required to check their customer and other business relationships to establish any connections to persons and/or entities listed pursuant to the above-mentioned resolutions.

Finally, the financial institutions are obliged to report any suspicion to the National Authority for Investigation and Prosecution of Economic and Environmental Crimes (ØKOKRIM), the Financial Intelligence Unit cf. the Financial Services Act, section 2-17.

ØKOKRIM has established a working-group, which investigates cases concerning suspected financing of terrorism. This group has recently developed a formal co-operation with the Norwegian National Security Police (PST). In addition, ØKOKRIM has established a separate Money Laundering Unit.

Norwegian financial institutions are subject to a legal framework that is fully in line with the Financial Action Task Force (FATF) Forty Recommendations and European Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, implemented through the European Economic Area Agreement, Annex IX, Item 23.

The Banking, Insurance and Securities Commission Regulations on Customer Identification and Measures to Combat money Laundering (No. 118 of 2 July 1994) specifies what steps the individual financial institution needs to take to ensure customer identity and the legality of transactions. The Commission is also responsible for supervising that financial institutions follow the above-mentioned legislation.

In addition to the legislative structure and procedural mechanisms described under question No 2 above, the Norwegian Ministry of Justice conducts regular meetings with the Ministries of Foreign Affairs, Immigration, and Finance, The Director General of Public Prosecutions (Riksadvokaten), The Banking, Insurance and Securities Commission (Kredittilsynet) the National Authority for Investigation and Prosecution of Economic and Environmental Crimes (ØKOKRIM), the immigration authorities etc. The purpose of these meetings is to co-ordinate the national efforts to combat international terrorism.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Banks, financial institutions and other institutions comprised by anti-money laundering legislation have a duty to require customer identification when establishing a business relationship and when handling transactions over a certain threshold. The institutions have an obligation to store information contained in the identification documents for at least five years after the customer relationship has expired or the transaction has been carried out.

The Banking, Insurance and Securities Commission (Kredittilsynet) supervises the financial-, insurance- and securities institutions. The supervision (on-site inspections) comprises inter alia the institutions' compliance with anti-money laundering- and anti-terrorist financing legislation. Kredittilsynet issues guidelines updating the Commitee's List of individuals or entities listed by the United Nations.

The above mentioned institutions have a duty to carry out investigations of suspicious transactions and a duty to report such transactions to ØKOKRIM. This also includes transactions, which may be linked to terrorist financing.

The Ministry of Finance has the responsibility for regulation and supervision of the banking, insurance- and securities industry.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

•identification(s) of the person or entities whose assets have been frozen;
•a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);
•the value of assets frozen.

So far, the Norwegian police authorities have not frozen any assets in accordance with the above-mentioned resolutions, with the exception, as noted under item 4 above, of assets belonging to the individual also known as Mullah Krekar. The assets frozen amount to approximately USD 1000 on a bank deposit account belonging to the above-mentioned person.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

So far the Norwegian police authorities have not released any assets or funds pursuant to Resolution 1452.

14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- *The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.*
- *Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.*
- *Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated. Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.*
- *Restrictions or regulations, if any, applicable to alternate remittance systems such as -- or similar to -- "hawala", as well as on charities, cultural and other non-profit organisations engaged in the collection and disbursement of funds for social or charitable purposes*

To ensure that no funds, financial assets or economic resources are made available to persons or entities covered by the above-mentioned resolutions, a new Act was passed 28 June 2002 The Norwegian Penal Code Section 147 b. This section has been incorporated in the Financial Services Act, Sections 2-17, which constitutes financial institutions requirements to report suspicious transactions.

- The method used to inform banks and other financial institutions is mentioned under question 10.
- Only the financial institutions mentioned specifically in the Financial Services Act, Sections 1-3 and 2-1, are required to report suspicious transactions. All STRs are reviewed and evaluated in the same manner.
- Movement of gold, diamonds or other related items are not mentioned in legislation concerning money laundering or financing of terrorism, but only in general legislation such as the Customs Act, the Taxation Act etc.
- To operate legal remittance systems in Norway one needs a licence from the Central Bank of Norway(Norges Bank). Typical alternative remittance systems such as, or similar to, "Hawala", do not meet the stringent requirements for such licensing.
- The operation of charities, cultural and other non-profit organisations engaged in the collection and disbursement of funds are not mentioned in legislation concerning money laundering or financing of terrorism, but only in general legislation such as the Account Act etc.

Other relevant legislation and regulations:

- The Penal Code of 22. May 1902 No. 10 new Section 147a prohibits and penalises terrorist acts, Section 147b prohibits and penalises financing of terrorism.
- Regulation on limited sanctions against Taliban – freezing of assets and other financial resources of 22. December 1999 No 1374. The regulations contain a duty to freeze assets and other financial resources belonging to persons or entities named in the Lists drawn up by the United Nations' Sanctions Committee.
- The Financial Services Act of 10. June 1988 No. 40 Section 2-17, third paragraph, first sentence:

  "If a financial institution suspects that a transaction is linked to the proceeds of a criminal act, or to any matter punishable under the provisions of section 147 a or 147 b of the Penal Code, it is obliged to carry out further investigations in order to confirm or dispel the suspicion".

Financial institutions include Banks, insurance companies, finance and mortgage undertakings.

Section 2-17 also applies to Norges Bank (the Central bank of Norway), the government postal enterprise when it performs services for a financial institution, management companies for securities funds, investment firms, insurance, project and currency broking undertakings.

- The above mentioned institutions are informed of United Nations listed individuals or entities by circulars issued by Kredittilsynet. These circulars are also published on Kredittilsynet's website.
- The above mentioned institutions have a duty to report suspicious transactions to the National Authority for Investigation and Prosecution of Economic and Environmental Crimes (ØKOKRIM). This includes transactions, which may be linked to terrorist financing.
- The duty to report suspicious transactions applies also to non-bank financial institutions (see above).
- The Norwegian objective is to implement EUs second anti-money laundering directive (2001/97/EC) as soon as possible. The directive also comprises dealers in high-value goods. A duty to report suspicious transactions for such dealers will be imposed.
- According to Foreign Exchange regulations issued 27. June 1990 by The Central Bank of Norway (Norges Bank) chapter 4 it is " prohibited for anyone other than Norges Bank and foreign exchange banks to engage in the commercial transfer of payments to and from other countries on behalf of the public". "Foreign exchange banks" are defined as commercial banks and savings banks.

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The regulations laid down in Royal Decree of 22 December 1999 Section 1 paragraph 2 prohibit individuals listed on the 1267 Committee's List to enter or pass in transit through Norwegian territory. This does not apply to Norwegian nationals where entry or transit is necessary for the fulfilment of a judicial process or where the Sanctions Committee determines on a case by case basis that entry or transit is justified.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The Lists have been communicated to the national authorities responsible for border control.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The updating of the List is communicated to the relevant authorities following each revision carried out by the 1267-Committee. There is currently no national electronic searchable register at the entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

The Norwegian authorities have not identified any of the listed individuals trying to enter or transit through Norway.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

The List has been communicated to the Consular offices. The visa-issuing authorities have not identified any applicant whose name appears on the List.

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Norway remains fully committed to the implementation of the embargo on deliveries of weapons and military equipment to Usama bin Laden, members of Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them.

Norway controls the export of conventional arms and weapons of mass destruction on the basis of national legislation for armament, equipment and technology. Strict export control practice is implemented, taking into account criteria such as international security, stability and non-proliferation concerns.

Norway follows the criteria and principles of the EU Code of Conduct, the UN Register on Conventional Arms Transfers, The Wassenaar Arrangement, the Australia Group, the Nuclear Suppliers Group, the Missile Technology Control Regime and various regional initiatives.

Section 1 of Act of 7 June 1968 relating to the implementation of mandatory decisions of the Security Council provides the legal basis for the King in Council to issue regulations necessary for the implementation of such decisions. Such regulations were laid down in Royal Decree of 22 December 1999 relating to sanctions against Usama bin Laden, members of the Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them. According to Section 1 paragraph 3 a of these Regulations, it is prohibited for Norwegian legal entities or any person who is present in Norwegian territory to sell, supply or transfer, directly or indirectly, arms and related materiel, including ammunition, military vehicles, military and paramilitary equipment and spare parts for the aforementioned, to such individuals, groups, undertakings or entities. The prohibition also applies to the use of vessels and aircraft registered in Norway.

According to Section 1 paragraph 3 b of the Regulations, it is furthermore prohibited for Norwegian legal entities or any person present in Norwegian territory to sell, supply or transfer, directly or indirectly, technical assistance or military training to such individuals, groups, undertakings or entities.

The Act of 18 December 1987 relating to control of the export of strategic goods, services and technology etc, provides the legal basis for control of the export of such goods in general. The King in Council has, by the authority provided for in Section 1 of the Act, prohibited any export of goods, technology or services which could be of importance to the development, production or use by other countries of products for military use, or which could directly benefit the development of a state's military capability, without the permission of the Ministry of Foreign Affairs. The products and technologies for which such permission is required are specified in export control lists. The Act also prohibits any persons resident or staying in Norway and Norwegian companies, foundations and associations from trading in or otherwise assisting in the sale of arms and defence material from one foreign country to another without special permission.

Unless the matter is subject to a more severe penalty otherwise provided by statute, a penalty may be imposed of fines or imprisonment for up to five years, or both.

Before processing an application, the Ministry of Foreign Affairs requires that satisfactory documentation has been submitted. Documentation that identifies the end-user is required.

An individual licence, issued by the licensing authority, the Ministry of Foreign Affairs, authorises the export of one or several pieces to one recipient upon application. Collective licences are not issued for defence related exports.

The period of validity for licenses for small arms and light weapons is normally up to three months. Licenses for temporary export are issued in cases of repairs, demonstrations and exhibition purposes.

Licenses are not required when small arms and light weapons are used by national contingents participating in peacekeeping operations and military training exercises. Private persons on temporary travel with legally owned weapons are exempted from the license requirements.

An export licence granted pursuant to the regulations may be revoked if the licence holder to a considerable extent misuses the licence or to a considerable extent fails to fulfil the terms specified therein. A licence may also be revoked if new facts or changes in the facts become known, or the political situation in the recipient state or area changes, so that the basis on which permission was granted is significantly altered. The general rules concerning the reversal of individual decisions also apply.
No licences are issued to embargoed destinations or areas of concern.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

Pursuant to Section 2 of the 1968 Act relating to the implementation of binding resolutions adopted by the United Nations Security Council, any wilful or negligent contravention of the Regulations is punishable by imprisonment, fines or both. The Norwegian authorities are not aware of any contravention of the legal measures described above.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

Reference is made to the Act of 18 December 1987 relating to control of the export of strategic goods, services and technology etc. described in further detail under question 20 above. The Act prohibits persons resident or staying in Norway and Norwegian companies, foundations and associations from trading or negotiating or otherwise assisting in the sale of arms and defence materiel from one foreign country to another without special permission.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

Export of all strategic goods, including weapons and other military equipment, regardless of the destination of the goods requires an export licence issued by the Ministry of Foreign Affairs. The Ministry will reject any application for export which could, directly or indirectly, make available for Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them technology necessary for weapons development and production. The applicant will therefore be precluded from exporting the goods through any ordinary export channels.

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Norway is willing to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions. Such technical assistance has been provided pursuant to Security Council resolution 1373.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

Not applicable.

26. Please include any additional information you believe pertinent.

No further information.

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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 10 June 2003 from the Permanent Representative of India to the United Nations addressed to the Chairman of the Committee

I forward herewith India's report called for under paragraph 6 of Security Council resolution 1455 (2003), on the steps taken to implement the Al Qaida/Taliban sanctions regime (see annex). I sincerely regret the fact that we were not able to send the report by the stipulated date.

The report is set out in terms of the guidelines prepared by the Committee pursuant to paragraph 12 of Security Council resolution 1455 (2003).

My Government stands ready to provide the Committee with any further information required regarding India's implementation of resolution 1455 (2003).

(*Signed*) V. K. **Nambiar**

03-39573 (E) 180603

Annex to the letter dated 10 June 2003 from the Permanent Representative of India to the United Nations addressed to the Chairman of the Committee

Report by India on implementation of Security Council resolution 1455 (2003)

The following report details the steps undertaken by the Government of India in pursuance of Security Council resolution 1455(2003) concerning sanctions against Al-Qaeda/Taliban and related entities. The report has been set out in accordance with the guidelines provided by the 1267 Committee on the format of the report.

I. Introduction

Terrorism is one of the most serious, pervasive and pernicious threats to civilized societies and to international peace and security. Whatever the motive of their perpetration – political, ideological, philosophical, racial, ethnic, religious or any other, terrorist acts are unjustifiable. India is of the firm belief that the scourge of terrorism can only be eliminated by close cooperation and interaction among all States.

Over the past two decades, India has been the victim of terrorism and has faced numerous terrorist attacks. Al Qaeda / Taliban and related entities have been a major threat to India and its immediate neighborhood. Consistent with its efforts to fight the menace of terrorism in all its manifestations, India has been supportive of efforts, under the UN and elsewhere, to combat this threat and has imposed ban on these entities. The concerned intelligence, police, administrative and other relevant authorities, continuously assess the possible activities in India by Al Qaeda/Taliban and related entities.

No specific information is available, at present, regarding the presence of Al Qaeda/Taliban and related entities in India that can be conveyed to the Committee at this stage. Any concrete information that becomes available will be shared with the Committee.

II. Consolidated list

All the names in the list of individuals, entities and organizations associated with Taliban Al Qaeda have been circulated through the Ministries of Home Affairs and Finance

to the relevant police, intelligence, immigration & customs authorities and other relevant agencies, both at the national and state levels.

The concerned agencies have confirmed that they do not have any specific information that any one these entities have established base in India. If any specific intelligence or information is made available on the links of any of these entities or individuals with India, these would be investigated by the concerned agencies.

III. Financial and economic assets freeze

The concerned agencies of the Government have confirmed that there is no specific information that these organizations maintain accounts or hold financial assets in India. The Banking Division of the Ministry of Finance, Government of India has directed the Reserve Bank of India (Central Bank) to take immediate action, if any information on such accounts or financial assets is detected.

Interception and consequential legal measures on illegal financial flows including financial flows related to terrorism are effected through a number of administrative agencies and mechanisms. These include: Police (both at the national and state levels), intelligence agencies and financial institutions.

Informal channels of financial flows such as "Hawala", through which terrorist related finances flow, are illegal as permission is required from the Reserve Bank of India for most categories of foreign exchange transactions. Hawala is a criminal offence under the Foreign Exchange Regulation Act (FERA), 1973 and penalties of up to five times the amount in contravention can be imposed for breach of these legal provisions. The offender can also be prosecuted under the Act with imprisonment and fine. Foreign Exchange Management Act (FEMA), which was recently enacted to replace FERA, confer on the competent authority the power to direct the confiscation of any currency, security or any other money or property in respect of which any contravention has occurred.

Several authorities in India, including the Enforcement Directorate, the Police, Customs and the Income Tax, as well as

State police organizations monitor financial activities, including Hawala transactions. The Enforcement Directorate (responsible for revenue intelligence), the Customs and the Police have adequate powers to initiate action against anybody indulging in illegal foreign exchange transactions. In addition, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA) contains stringent provisions to deal with an offender indulging in such illegal foreign exchange activities. For monitoring the collection and use of funds and other economic resources by non-profit organizations and ensuring that these are not diverted for other unstated purposes, the Societies Registration Act is resorted to. Several States of India have also, subsequently, enacted their own Societies Registration Act that contain detailed provisions relating to registration, maintenance of accounts, collection and use of resources, and audit of accounts. Such legislation imposes certain mandatory obligations on non-profit organizations which, if not fulfilled, give the Government the right to dissolve the entity and to appoint a special officer to administer the society.

Under the Prevention of Terrorism Act (POTA), 2002, terrorist acts include acts of fund-raising by persons or organizations if such funds are intended for the purposes of terrorism. All such activities may be prosecuted under the Prevention of Terrorism Act, 2002.

The Foreign Contribution (Regulation) Act 1976 enables the competent authorities, at both the national and State levels, to closely monitor the receipt and use of foreign resources by organizations in India. A close and continuous interaction is maintained between the national and State Governments through intelligence agencies and the police to track and monitor any such diversion of funds for terrorist purposes.

The Income Tax Act also prohibits the expenditure of funds by such organizations for purposes other than those mentioned in their memorandum of association, and decrees that their funds may be invested only in scheduled banks, public deposits, bonds and Government securities. The Income Tax Department maintains a separate Directorate General that deals with non-profit organizations exempted from income tax. Organizations exempted from income tax are required to file

regular statements with the concerned authorities, and their accounts are monitored by the Directorate General. An appropriate legislative framework, complemented by adequate enforcement mechanism, exists at the national and State levels to monitor and check the collection and use of funds and other economic resources by non-profit organizations.

The Criminal Procedure Code of 1973 deals with general provisions in connection with the attachment or forfeiture of property derived or obtained, directly or indirectly, by any person from the commission of an offence. With respect to terrorist offences, property may also be forfeited, as indicated above, under the provisions of Prevention of Terrorism Act, 2002.

As these agencies act in close coordination, the totality of information concerning any terrorist use of illicit financial transaction can be deduced and passed on to police and investigative authorities to register cases and initiate proceedings within the domestic legal framework. Listing Al Qaeda as a banned organization under this Act, in spite of lack of evidence of their presence in India, enables enforcement authorities under the Prevention of Terrorism Act 2002 to take action against Al Qaeda/Taliban etc, the moment its activities come to their notice.

IV. Travel Ban

All immigration authorities in India have been informed about the 1267 Committee's List. A stringent system of immigration control is maintained in India by utilizing latest data bases to check for terrorists and criminals. In addition, Immigration Authorities, Customs Authorities and Intelligence Agencies are fully equipped to ensure that undesirable individuals cannot enter India or seek safe haven in the country. India has extensive border controls on its land borders and strong Coast Guard Agency to patrol the Indián coastline. The Foreigners Act of 1946, various Foreigners Orders issued by the Ministry of Home Affairs, from time to time, and the Passport Act of 1967 provide the suitable legal framework to implement the Travel Ban.

Besides the above safeguards, provisions from the Visa Manual of the Government of India ensure that suspected terrorists do not get visas to visit India. Individuals identified as terrorists/ anti-social elements are placed on a negative list by the Ministry of Home Affairs of the Government of India, on the basis of inputs received from Intelligence Agencies. The names of individuals and organizations on the negative list are circulated to all visa issuing authorities, including India's Embassies/High Commissions/Consulates abroad, and all immigration check posts in India. This list is periodically reviewed based on inputs from the concerned agencies.

All immigration authorities have been informed about the 1267 Committee's List for enforcement of the travel ban.

V. Arms Embargo

India has been exercising control over the export of goods, materials and technology of direct and indirect application to Weapons of Mass Destruction and the means of their delivery. Through appropriate legal and administrative measures, India has instituted an effective and comprehensive system to regulate sensitive and dual-use exports from India to ensure that these do not fall into wrong hands – whether State or non-State actors.

The systems of controls over dual-use exports was last reviewed in 2000, when, through notifications beginning April 1, 2000, the Government of India specified a list of Special Chemicals, Organisms, Equipment and Technologies (SCOMET) that may have application or relevance to the development, production or use of Weapons of Mass Destruction, and the export of which is either prohibited or permitted only under license and the conditions included therein. Various agencies of the Government are empowered to enforce the provisions of the laws that form the legal and regulatory basis of India's system of export controls.

All munitions are manufactured or traded in by entities that are wholly owned, controlled by or are on contract to the Government of India. Legal and administrative measures are in place for regulating exports of military stores which are permitted only under written permission of the relevant

agencies of the Government unless specified otherwise in the Government's Export Import Policy. This permission inter alia rests upon end-use and end-user certification on a government to government basis and is in conformity with the Government of India's foreign policy objectives which include a ban on military exports to entities under UN embargo.

Under the Indian legislative and administrative system, an arms embargo remains in place for all non-state actors. The arms embargo as required under United Nations Security Council Resolution 1455(2003) is in force.

VI. Conclusion

In its approach to terrorism, India believes that terrorism in all spheres needs to be combated and defeated by organized collective international action. For two decades, India has been a victim of terrorism, and India's approach to international efforts to combat terrorism is consistent with the need to further strengthen close cooperation between nations. Apart from initiatives on the legislative front, administrative financial, security and other related measures have been taken by the concerned agencies, both at the national and State levels, to meet the challenges posed by terrorism. India has not identified any area where the implementation of the Al Qaeda/Taliban-related sanctions regime is incomplete.

United Nations S/AC.37/2003/(1455)/50

Security Council

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12 June 2003

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 12 June 2003 from the Permanent Representative of Thailand to the United Nations addressed to the Chairman of the Committee

The Permanent Representative of Thailand to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to the latter's note dated 4 March 2003, requesting Member States to submit an updated report to the Committee pursuant to operative paragraph 6 of Security Council resolution 1455 (2003), has the honour to submit herewith the updated report of Thailand (see annex).

03-39636 (E) 250603

Annex to the note verbale dated 12 June 2003 from the Permanent Representative of Thailand to the United Nations addressed to the Chairman of the Committee

Thailand's implementation report pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

1. *Description of activities by Usama Bin Laden, Al-Qaeda, the Taliban and their associates in Thailand, the threat they pose to the country and the region, as well as trend*

- Thailand has adopted a firm policy in condemning terrorism in all its forms and manifestations. In practice, all authorities concerned have done their utmost to ensure that Thailand will not be used as a base for the commission of any terrorist acts against any other countries and that terrorist will never find a safe haven in Thailand.
- All intelligence agencies, be it civilian, military or law enforcement, have accorded high priority to information sharing and networking with their foreign counterparts, especially the U.S. agencies. Since 11 September 2001, all Thai intelligence agencies have intensified their cooperation in the investigation and the search for suspects of the incident by checking their criminal records and the record of their visit to Thailand, as well as monitoring their movement.
- According to the latest intelligence assessment by the Thai authorities concerned, it is unlikely that terrorist groups such as Jemaah Islamiyah (JI) or Al-Qaeda have networks, supporters or important activities in Thailand. However, authorities have remained vigilant in monitoring activities of extremist elements.

II. Consolidated list

2. *The incorporation of the 1267 Committee's List within Thailand's legal system and administrative structure, including financial supervision, police, immigration control, customs and consular authorities*

- Article 12 (7) of the Immigration Act (1979) stipulates that the competent Thai authority has the right to deny entry to the Kingdom of any person or persons whose behaviour is deemed to be harmful to the peace and safety of public or national security, or being under a warrant of arrest issued by a competent authority of a foreign government.
- After 11 September 2001, all security and law enforcement agencies have stepped up measures to detect, monitor and be alert to any movement of persons or groups believed to associate with terrorist organizations, with a view to preventing them from infiltrating into the country or using Thailand as a base for the commission of terrorist attacks within or outside Thailand.

- The Immigration Bureau of Thailand has incorporated the 1267 Committee's List in the black list and distributed it in diskette form to the Thai authorities concerned both within and outside Thailand. These diskettes are updated on a regular basis.

- The existing domestic laws do not provide a legal basis for the authorities concerned, such as the Bank of Thailand or the Anti-Money Laundering Office, to freeze the transfer of funds or financial resources of persons or entities suspected of committing or facilitating the commission of terrorist acts. In this regard, the Bank of Thailand has applied administrative measures by circulating a note with the 1267 Committee's List to all commercial banks and financial institutions requesting their cooperation to comply with the relevant Security Council resolutions.

- Circulars of the Bank of Thailand have no legal binding force. However, in practice, all commercial banks and monetary institutes in Thailand follow the guidelines in such circulars and report their actions to the Bank of Thailand.

- In order to close this legal loophole, the Council of State submitted draft amendments to the Penal Code and to the Money Laundering Act to the Cabinet on 11 December 2001. The thrust of the draft amendment to the Money Laundering Act is to make terrorist acts under the Penal Code an offence under the Money Laundering law as well. Once Parliament approves these two draft amendments, the Anti-Money Laundering Office will be empowered to freeze the transfer of funds or financial resources of alleged terrorists and their accomplices. At present, the draft amendments are under the consideration of the Commission of the House of Representatives.

3. *Problems with implementation with regard to the names and identifying information as currently included in the List*

- Terrorist suspects often travel with counterfeit documents and identification. The information received is often incomplete. The Thai side may be informed of only the name of the suspected person and no other relevant information, such as the last name or birth date. In cases where there are many persons using the same name, which is not unusual for people of Arab origin, complete information is necessary to help confirm the true identification of such person.

- Incomplete information such as no data on gender or passport number makes it impossible for authorities concerned to include such information in the official watch list.

4. *Have Thai authorities identified inside your territory any designated individuals or entities?*

- None

5. *The names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaeda that have not been included in the List*

- None

6. *Listed individuals or entities brought a lawsuit or engaged in legal proceedings against Thai authorities for inclusion in the List*

- None

7. *Any of the listed individuals as nationals or residents of Thailand*

- None

8. *National legislation measures taken to prevent entities and individuals from recruiting or supporting Al-Qaeda members in carrying out activities inside Thailand, and to prevent individuals from participating in Al-Qaeda training camps established in Thailand's territory or in another country*

- The draft amendment to the Penal Code defines the scope of terrorism and prescribes the act of terrorism as a serious offence under Thai criminal law. The proposed punishment ranges from a fine of 200,000-1,000,000 Baht to the death sentence. Any person who threatens to commit such an offence or is an accomplice thereof would receive the same punishment as the perpetrator of the crime of terrorism. Persons engaging in various forms of attempted commission of the crime are subject to a lesser punishment, ranging from a fine of 60,000-300,000 Baht to 3-15 years of imprisonment.

- The draft amendment to the Penal Code which stipulates the terrorist act as a serious crime with severe punishment would punish not only perpetrators of the crime but also their accomplices, including persons or entities making funds or financial assets available to them.

- The draft amendment to the Penal Code stipulates severe punishment on recruitment of members of terrorist groups and supply of weapons to terrorists, either in the form of direct support or facilitation of the commission of terrorist acts.

III. Financial and economic assets freeze

9. *The domestic legal basis to implement the asset freeze required by resolution 1267 (1999), and paragraphs 1 and 2 (a) of resolution 1390 (2002) as well as impediments under Thailand's domestic law in this context and steps taken to address them*

- The Thai Government has issued instructions to all authorities concerned to comply with United Nations Security Council resolutions on freezing of transfer of funds or financial resources belonging to the Taliban, Usama Bin Laden and the Al-Qaeda network. However, existing domestic laws do not provide a legal basis for the authorities concerned to freeze the transfer of funds or financial resources of persons or entities suspected of committing or facilitating the commission of terrorist acts.

- The authorities concerned and the Council of State have considered the relevant domestic laws and regulations in order to make necessary amendments thereof in order to implement the resolution in full. In this regard, two draft amendments on the Penal Code and the Anti-Money Laundering Act were initiated to empower the relevant authorities, particularly the Anti-Money Laundering Office, in taking effective counter-measures against money-

laundering and other illegitimate financing. Moreover, the draft amendment of the Penal Code defines the scope of terrorism and prescribes the act of terrorism as a serious offence with severe punishments under the Thai criminal code.

10. *Structures or mechanisms in place within the Thai Government to identify and investigate Usama Bin Laden, Al-Qaeda or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within Thailand's jurisdiction*

- Pursuant to the Money Laundering Act, financial institutions, government units under the Department of Lands and traders engaging in businesses involving the operation of or consultation in a transaction related to the investment or mobilization of capital are required to report any suspicious transactions to the Anti-Money Laundering Office.
- Section 3 of the Act defines "financial institution" as:
  - The Bank of Thailand, a commercial bank and such banks as specifically established by law;
  - Finance companies, credit financier companies and securities companies under the law on securities and stock exchange;
  - The Industrial Finance Corporation of Thailand and small industrial finance corporations;
  - Life insurance companies and insurance companies;
  - Savings cooperatives; or
  - Juristic persons carrying on such other businesses related to finance as prescribed in a Ministerial Regulation.
- Therefore, under the sixth definition, "financial institution" can be broadly interpreted to cover the intermediaries outside the main financial sector.
- The penalty for non-compliance with the requirement to report suspicious transactions is a fine up to 300,000 Baht.
- In the proposed draft amendment to the Money Laundering act, the terrorist offence stipulated in the Penal Code is designated as one of the predicated offences under the Money Laundering Act, which will enable the authority concerned i.e., the Anti-Money Laundering Office, to freeze funds, financial assets and other economic resources of entities and persons who support terrorism.
- The Money Laundering Act empowers the Transaction Committee, appointed by the Anti-Money Laundering Office, to examine a transaction or property relating to the commission of an act of terrorism, as one of predicated offences under the Act. According to Section 48, the Committee can withhold authorization for the maximum of 90 days transactions that are believed to be related to terrorism. The law further enables the Committee to order a seizure or attachment of any property found to be connected with the commission of an offence under the Money Laundering Act.

- The two draft amendments to the Penal Code and the Anti-Money Laundering Act mentioned above have taken into account the requirements of the International Convention for the Suppression of the Financing of Terrorism. The proposed amendment to the Penal Code states that an offence of terrorism shall be severely punished, and it also extends the punishment to any kind of supporter who provides financial or physical assistance. According to the revised Money Laundering Act, the authority concerned i.e., the Anti-Money Laundering Office, is empowered to freeze any funding relating to a terrorist act. In this respect, the two amendments not only fully implement Thailand's obligations under the relevant UNSC resolutions, but also comply with her future obligations under the International Convention for the Suppression of the Financing of Terrorism, which she has yet to ratify.

- The Anti-Money Laundering Office received the 1267 Committee's List from the Ministry of Foreign Affairs and the U.S. Government Executive Order 13224 terrorist financing list from the U.S. Embassy in Thailand. The Office examined these names against its database but found nothing and the providers were informed of the results. Additionally, the Office also requested cooperation from financial institutions to report to the Office without delay whenever they have listed individuals or entities as their customers.

- The Anti-Laundering Office has been a member of the BGMONT Group since 2000. This membership has enabled the Office to have access to and exchange information with all 57 members.

- The Mutual Assistance in Criminal Matters Act (1992) forms a broad basis for cooperation with other countries in criminal matters; i.e., taking testimony and statements of persons; providing documents, records and evidence for prosecution and search and forfeiture of properties. The thrust of the law is based on principles of double criminality and reciprocity that allow Thailand to extend assistance in criminal matters to virtually every country. The law is supplemented by the Treaties of Mutual Assistance in Criminal Matters that Thailand has with five countries; namely, the United States, Canada, the United Kingdom, France and Norway.

- Apart from the Act on Mutual Assistance in Criminal Matters (1992), Thailand also has the Extradition Act of 1929. The Act of 1929 provides another channel of judicial cooperation with other countries. Like the Act on Mutual Assistance in Criminal Matters, the main thrust of the Act is also based on the two basic principles of double criminality and reciprocity. It is supplemented by 14 bilateral extradition treaties with friendly countries; namely, the United Kingdom, Belgium, Indonesia, the Philippines, the United States, the People's Republic of China, the Republic of Korea, Laos, Bangladesh, Cambodia, Malaysia, Fiji, Canada and Australia.

11. *Steps that banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama Bin Laden or members of Al-Qaeda or the Taliban, or associated entities or individuals*

- The Bank of Thailand has taken measures as follows:

  – Issued a circular requesting the Thai Bankers' Association, the Association of Finance Companies and the Foreign Banks' Association to distribute the 1267 Committee's List to all commercial banks and financial institutions.

All commercial banks and financial institutions have been requested to promptly report their suspicions if any transactions that may be linked, or related to, terrorism, terrorist acts or terrorist organizations are carried out.

- Issued a notification letter to financial institutions regarding the correct practices in accepting deposit for opening account, and prohibits the use of an assumed name or alias to comply with the "Know Your Customer" Policy. Financial institutions are required to follow the Policy by having their customers identify themselves.
- In accordance with Thailand's existing exchange control law,
  - Transfer of funds into or out of Thailand has to be reported to the Bank of Thailand; and
  - Foreign exchange must be supported by relevant documents of the underlying transactions.

12. *List of the assets that have been frozen in accordance with resolution 1455 (2003)*

- None

13. *Financial assets or economic assets previously frozen as being related to Usama Bin Laden or members of the Al-Qaeda or the Taliban or associated individuals or entities, pursuant to resolution 1452 (2002)*

- None

14. *Thailand's domestic legal basis, including a brief description of laws, regulations and/or procedures to control the movements of funds or financial assets to designated individuals and entities, pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999)*

- Please refer to No. 9-11.
- The proposed amendment to the Penal Code states that any person providing "force, arms, *properties or any support* for the commission of terrorism" is considered to be committing an act of terrorism. If found guilty, that person will be subject to either the death penalty, life imprisonment or imprisonment ranging from three years to twenty years, and shall also pay a fine of 60,000-1,000,000 Baht. Furthermore, the amendment punishes many person who *provides or compiles any property* in order to commit a terrorist act.
- Under the Exchange Control Act (1942), all persons or legal entities that provide services for the transmission of money or valuables must be approved by the Ministry of Finance under the recommendation of the Bank of Thailand. Any persons or legal entities that carry out this service illegally will be subject to criminal sanctions under this law.
- According to Notification No. 13 issued by the Bank of Thailand under the authority of the Money Exchange Controls Act of 1942, any person (except authorized banks, companies or persons) shall not buy, sell, loan, exchange or transfer foreign money or other foreign mediums of exchange without permission.

- Any person who does not comply with this Act is liable to a fine up to 20,000 Baht or to an imprisonment up to three years or to both.

IV. Travel ban

15. *An outline of the legislative and/or administrative measures taken to implement the travel ban*

- Intelligence and security agencies in Thailand have been on high alert since the 11 September incident. Tight measures are in place to inspect and monitor any movement of terrorists. A watch list of persons who have any connection with terrorist groups was prepared to be shared among all agencies concerned so that they can cooperate to prevent suspects from entering the country.
- The immigration procedures start with the application for a visa at Thai Embassies and Consulates abroad. Thailand has reduced the number of countries eligible for visa exemption from 57 to 38 and the number of countries whose nationals may apply for a visa at the immigration checkpoint upon arrival has been reduced from 96 to 15. The Royal Thai Government has also introduced stricter visa application procedures for certain target groups. The requirement for visa application allows more time for authorities to check the identification of applicants to ensure that those who want to travel to Thailand are not on the black list. Therefore, it is very important that the database be constantly updated.

16 and 17. *Steps taken to include the names of the listed individuals in a national "stop list" or border checkpoint list, frequency of transmission of the updated List to border control authorities, and the capability of searching List data using electronic means at all entry points.*

- In an effort to enhance its capacity in controlling the movement of people more effectively, the Immigration Bureau of Thailand has provided for necessary equipment.
  - The Bureau has installed a computerized system to monitor and collect information on incoming and outgoing passengers at all international airports.
  - Black List diskettes with the 1267 Committee's List incorporated are distributed to all 53 immigration border checkpoints as well as to the Thai Embassies and Consulates abroad to improve the efficiency of inspection of incoming and outgoing peoples. These diskettes are updated on a bimonthly basis.
  - The Bureau is also in the process of installing a system linking all ports of entry with online data. It is expected that the project will be completed in the near future.
  - The Bureau has also installed passport machines to check, prevent and arrest suspected terrorists and targeted persons in the Black List or Watch List, including persons who are under arrest warrants.

– Passport inspection equipment has also been installed at all international airports and key border checkpoints, such as the ones along the border with Malaysia.

18. *Listed individuals stopped at any of Thailand's border points or while transiting Thai territory*

- No report on listed individuals at any of our border checkpoints or transiting our territory.

19. *Outline of the measures taken to incorporate the List in the reference database of Thai Consular offices*

- Please refer to No. 15-17.
- No report on any visa applicants whose name appears on the 1267 Committee's List.

V. Arms embargo

20-23. *Measures to prevent the acquisition of conventional arms and WMD by Usama Bin Laden, members of the Al-Qaeda organization and the Taliban, and other individuals, groups, undertakings and entities associated with them / Export Controls to prevent the above targets from obtaining the items and technology necessary for weapons development and production*

Measures to criminalize the violation of the arms embargo directed at Usama Bin Laden, members of Al-Qaeda organization and the Taliban, and other individuals, groups, undertakings and entities associated with them

Arms/arms broker licensing system / Safeguards of weapons and ammunition produced within Thailand

- The Ministry of Defence, at present, reports on an annual basis on the import and export of seven kinds of conventional arms, such as battle tanks, armoured combat vehicles, artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers through the Ministry of Foreign Affairs to the United Nations Register of Conventional Arms (UNSCR). The UNSCR controls the import and export of conventional arms that belong to its member States.
- As a State Party of the Chemical Weapons Convention (CWC), Thailand has fully complied with its obligations and is committed to the international and non-discriminatory verification activities of the Organization for the Prohibition of Chemical Weapons (OPCW). The Royal Thai Government has already enacted legislation for the full implementation of the CWC. The Ministry of Industry has now concluded the Initial Declaration and is now expediting the process of its approval by the Cabinet, as required by the Constitution, before submitting it to the OPCW.
- Thailand is a State Party to the Nuclear Non-Proliferation Treaty (NPT) and has its Safeguards Agreement with the International Atomic Energy Agency (IAEA). Thailand supports the recent proposals by the IAEA on the issue of protection against nuclear terrorism. The Office of Atom for Peace is accelerating the process to conclude the Additional Protocol with the IAEA.

- The proposed amendment to the Penal Code will penalize any person who "provides forces, arms, properties or any support for the commission of an act or an act of terrorism". Furthermore, the amendment covers offences relating to terrorism, namely recruiting persons, stockpiling weapons, providing or complying any property, or organizing any preparation or conspiracy in order to commit a terrorist act. These two provisions enable compliance with the subparagraph.

- The relevant laws that regulate the domestic manufacture, sale, possession and disposition of weapons are:

  - *The Munitions of War Control Act of 1987*, which prohibits a person from importing, procuring, manufacturing or possessing weapons except with the permission of the Permanent Secretary of the Department of Defence. The Act also states that permission shall not be given to any person who may cause any violence to the public peace.

  - Under *The Firearms, Ammunition, Explosive Articles and Fireworks and Imitation of Firearms Act 1974*, any person shall not manufacture, purchase, possess, use, or import guns, bullets or explosives without permission from the registrar. The permission shall not be given to any person who may cause any violence to the public peace.

- Both the Munitions of War Control Act of 1987 and the Firearms, Ammunition, Explosive Articles and Fireworks and Imitation of Firearms Act of 1974 stipulate that the import of weapons and explosives is prohibited except with permission from the competent authorities. The two Acts also proscribe any manufacture or any purchase of arms and weapons. Therefore, the trading and manufacturing of weapons and explosives are regulated and controlled by the competent government agencies. Furthermore, the Act on Export Control of Armaments and Materials of 1952 and the Decree on the Export Control of Armaments and Materials of 1992 subjects and export or trans-shipment of weapons and explosives to the permission of the Minister of Defence or a person designated by the Minister, and to the conditions of the export or trans-shipment as follows:

  - A foreign Government shall request an export or trans-shipment pursuant to an agreement with the Royal Thai Government.

  - They shall be the Government's armaments and materials used in wartime, authorized by the Minister of Defence.

  - The export or trans-shipment shall be undertaken publicly as a business authorized by the Minister of Defence.

- In the interest of enhancing our abilities to combat terrorism, on 19 August and 31 October 2002, the Ministry of Interior and Ministry of Defence issued orders for various agencies to take all measures within their authority for strict compliance to the law by all handlers of firearms. These new measures include closer monitoring of sensitive materials by all provincial administrations. In addition, each province is tasked with the responsibility of preparing a detailed report of the use of detonated materials on every first day of each month. The Permanent Secretary of Interior has been authorized to approve all movements

of sensitive materials across provincial borders. Armed military personnel must accompany movement of these materials.

- It is widely accepted that a large-scale terrorist attack requires extensive planning and includes the acquisition of explosive materials such as ammonium nitrate, TNT, power-gel and/or C4 as well as detonators. Taking the above into account, the Thai Government has intensified its control and regulation of sensitive explosive materials and has tightened its surveillance of foreign persons that have irregular patterns of movement in Thailand.

- Imports and exports of prohibited and restricted goods are criminal offences and offenders are subject to punishment in accordance with the relevant laws governing the import and export of such goods. The Customs Act of 1926 also provides for punishment of those who submit false information on goods to be imported and exported. Offenders are subject to imprisonment up to 10 years.

- Generally, customs officers spot check goods to be exported and imported that are not subject to any restrictions or duties. Imports and exports of prohibited and restricted goods are subject to a thorough inspection. After 11 September, Thailand has enforced more stringent measures for both imports and exports, especially goods going to and coming from target countries which are also thoroughly checked.

- Thailand is committed to cooperating with other countries in putting in place customs procedures that will guard against terrorism. The Thai Government will shortly sign a Declaration of Principle with the United States that will pave the way for the implementation of the "Container Security Initiative" or the CSI. Under the CSI, Thai customs officers will work closely with their United States counterparts in detecting "suspect" containers, and stringent procedures for cargo shipment will be implemented.

- Thai customs authorities have had good cooperation in information and intelligence exchange with customs attachés of the United States, United Kingdom, Japan, Republic of Korea, Australia and New Zealand stationed in Bangkok. As there is a lot of cargo coming in and out each day, it would be helpful if authorities receive information of any suspicious shipments. Therefore, intelligence sharing is as important for customs officers as it is for immigration authorities.

- Thailand is also member of the Asia-Pacific Regional Intelligence Liaison Office, which has its headquarters in Tokyo. The Customs Services of 27 countries from Asia-Pacific and South Asia, including those of 18 ARF countries, participate in this forum. It provides a good opportunity for customs officers in the region to share their experiences and intelligence. Past cooperation has focused on the issue of narcotic drugs, but it could be expanded to other issues relating to terrorism which has become a serious concern to the international community, such as illegal arms, chemicals and WMD.

VI. Assistance and conclusion

24. *Assistance provided to other States to help implement the measures contained in the aforementioned resolutions*

- Thailand is a flourishing open society based on democratic principles of governance. We aspire to become a regional communications, aviation and tourism hub. The Thai Government has invested a vast amount of resources to achieve those goals. It is in our national interest to ensure the success of such goals. The Thai Government is committed to doing its utmost to prevent terrorist acts and activities in the Kingdom. We will continue to work closely with our friends and neighbours in the fight against terrorism.

- Terrorism is a common threat to all nations. Close cooperation is essential in our efforts to prevent acts of terrorism. Thailand appreciates the friendly nations who have cooperated with us and wishes to continue to exchange information with all nations in order to successfully fight terrorism.

- On the international front, Thailand has already signed an MOU on Counter Terrorism Cooperation with Australia and has acceded to the regional counter-terrorism cooperation effort, namely the Agreement on Information Exchange and Establishment of Communication Procedures between Malaysia, Indonesia, Philippines and Cambodia. It is also important to note the recently enhanced cooperation within the ASEAN intelligence community.

- On the domestic front, a "community watch" campaign is being carried out to raise public awareness of the danger of terrorism and to encourage the people to assist authorities by reporting suspicious activities in their community.

25. *Area of incomplete information of the Taliban/Al-Qaeda sanction regime, and specific assistance or capacity-building to improve Thailand's ability to implement the above sanction regime*

- After 11 September, the various Thai intelligence agencies have enhanced coordination among themselves to ensure effectiveness and unity in overall operation. Thai intelligence authorities have intensified their cooperation in information and intelligence exchange with foreign counterparts. However, requests for intelligence or its verification have come in such large numbers that, given our limited human resources, it is simply impossible to verify all the intelligence received. But the authorities have tried their best and have done as much as they can.

- When receiving requests from officials of some embassies in Bangkok to detain or expel suspected persons, our immigration authorities have tried to be as cooperative as possible. However, if the requests contain incomplete information, authorities are at risk if they take actions against innocent persons. They are held accountable for such actions.

- Thailand is a hub of transportation and tourism in the region. While having to facilitate passengers travelling on legitimate businesses, we realize the need to enforce stricter immigration measures. With up to 25,000-28,000 persons travelling in and out of the country by air each day, accurate and timely intelligence can greatly enhance the ability of authorities in identifying and stopping "suspect" passengers.

- Thailand is aware of the need of certain States to warn its citizens against harm. However, we believe such warnings should be based on indisputable evidence of the nature of the threat. Hasty warning often disrupts tourism and therefore the economic growth of those countries targeted. More importantly, it

causes misperceptions that lead to a long-term loss of confidence in the safety of target countries. In this regard, the results are damaging to country relationships, as well as being an obstacle to cooperation in counter-terrorism efforts.

26. *Additional information*

- The Royal Thai Government is committed to the United Nations Charter, in particular Article 25 which stipulates that all Member States of the United Nations must agree to accept and carry out the decision of the Security Council in accordance with the present Charter. Therefore, Thailand is legally bound by all Security Council resolutions.

- The two draft amendments to the Penal Code and the Money Laundering Act will increase the effectiveness of Thai law in dealing with terrorism. The draft amendment to the Penal Code would make Thai laws cover every step in terrorism, including the preparation, the aiding and abettors, and the actual commission of acts of terrorism. The confines of the offences is not territorially limited to acts committed in Thailand, but also includes the commission of terrorist acts aimed at other countries or international organizations. The proposed amendment to the Money Laundering Act that incorporates as a crime under the Act acts of terrorism under the Penal Code will empower the Office of Anti-Money Laundering to promptly freeze the transfer of funds or financial assets of alleged terrorists or terrorist organizations.

- The signing of the International Convention on the Suppression of the Financing of Terrorism on 18 December 2001 reaffirms Thailand's commitment to the relevant Security Council resolutions, especially with regard to financial measures. It also reflects Thailand's determination to cooperate with the international community in the attempt to eradicate all terrorist groups within global reach by cutting off their financial supplies.

United Nations S/AC.37/2003/(1455)/51

Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 17 June 2003 from the Permanent Representative of Portugal to the United Nations addressed to the Chairman of the Committee

At the request of my Government, I have the honour to enclose herewith the report submitted by Portugal pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003) (see annex).

(*Signed*) Gonçalo **Santa Clara Gomes**
Permanent Representative of Portugal
to the United Nations

03-40129 (E) 300603

Annex to the letter dated 17 June 2003 from the Permanent Representative of Portugal to the United Nations addressed to the Chairman of the Committee

Reply pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003)

I. INTRODUCTION

1. **Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

Does not arise.

II CONSOLIDATED LIST

2. **How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

On 11 October 2001 the Portuguese Government, as the expression of its commitment to combating terrorism, issued an executive Order through the Finance Minister[1] ordering the freezing of all financial resources belonging to the persons and entities listed in the Annex to the Council Regulation (EC) No.467/2001 of 6 March, as amended by Council Regulation (EC) No. 1354/2001 of 4 July, both referring to the Taliban.

[1] Order No. 21 175/2001 (2nd Series), published in the Official Journal (*Diário da República Serie II*) of 11 October 2001.

By the said Order, the Government decided, in the framework of the EU initiative to implement the UNSC Resolution 1373/2001, to circulate the lists of persons and entities suspected of being linked to the terrorist acts of September 11 to the banking systems with a view to obtaining relevant information for the investigation and transmission thereof to the competent authorities, pursuant to the said Resolution on prevention of the use of the financial system for the purpose of money laundering.

On 16 February 2002, Act No. 11/2002 was published; it provides for sanctions which will be imposed in the case of failure to comply with financial or commercial sanctions imposed by a UN Security Council Resolution or by a EU Regulation and placing restrictions on the establishment and maintenance of financial or commercial relations with the States, other entities or individuals expressly identified in their subjective scope of application.

The said enactment criminalises the failure to respect the above-mentioned sanctions and anyone who -

- makes funds or financial assets available, directly or indirectly, to entities identified on the relevant resolutions or regulations, or for their benefit; or
- establishes or maintains legal relations subjected to sanctions with any individual identified on the relevant resolutions or regulations, or acquires or increases a part/share or position of control in respect of an estate, undertaking or other type of corporation, even if it is irregularly constituted, located or constituted in a territory identified on such resolutions or regulations

is liable to imprisonment for a term of between 3 and 5 years.

In addition, criminal liability of legal persons, companies or merely *de facto* associations is enshrined in the said Act in respect of offences committed by their bodies or representatives on their behalf and in their interest, in which case it will be applied, as the main penalty, a fine the amount of which will not be less than the amount of the transaction and will not exceed the double of the amount of the same transaction. If the offence is not linked to a transaction, the amount of the fine will be between

€ 5,000 and € 2,500,000, where financial entities are concerned, or between € 2 500 and € 1,000,000, as regards an individual or entity of a different nature.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.**

The fact that not enough information has been provided regarding the identity of the person concerned has raised homonymy issues (there has been a case where around fifty identical names included in the database of a banking institution corresponded to a sole name in the UN list).

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

Does not arise.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

We have no names to submit.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

Does not arise.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

Does not arise.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.**

Apart from reply to Q. 2, the Portuguese legal order comprises such relevant provisions on the matter at stake as follows:

The Portuguese Criminal Code[2] in its Chapter on Crimes against Public Order and Peace specifies the acts done by terrorist groups, associations or organisations as well as individual's terrorist behaviour.

Under Section 300, anyone who promotes, founds, supports or joins terrorist organisations, regardless of the commission of any crime envisaged by the organisation, will be punished by imprisonment for a term of 5 to 15 years. It is also set forth that anyone who leads or conducts a terrorist group, association or organisation will be punished by imprisonment for a term of 10 to 15 years. Acts preparatory of the constitution of the terrorist group, association or organisation will be punishable with imprisonment for a term of 1 to 8 years.

[2] Approved by Decree-Law No. 48/95 of 15 March, amended by Act No. 65/98 and Act No. 77/2001 of 13 July, Act No. 97/2001; by Act No. 98/2001 and Act No. 99/2001 of 25 August.

The relevant provision defines a terrorist group, association or organisation as *«any group of two or more persons who, acting in concert, set out to undermine the national integrity and independence or prevent, change or impair the functioning of the State institutions as established in the Constitution; or to force the authorities to act or refrain from acting or tolerate an act being done or to intimidate certain persons or groups or the entire population by committing offences -*

(a) against life, physical integrity or the freedom of individuals;

(b) against the safety of transportation as well as the security of communications, including telegraph, radio or television;

(c) involving ordinary dangers such as arson, releasing radioactive substances or toxic or asphyxiating gases, flooding or avalanche, *tumbling down a building, contamination of food and water for human consumption or dissemination of disease, plague, plant or noxious animal;*

(d) sabotage;

e) involving the use of nuclear energy, firearms, explosive substances or devices, incendiary material of any kind, or parcel or letter bombs.»

Section 301, on the other side, criminalizes individual terrorist acts, characterised by referring to the list laid down in Section 300, and provides that anyone who intentionally commits an act listed therein will be punished by 2 to 10 years' imprisonment, or by the sentence imposable to the crime committed increased by a third in its maximum and minimum limits, if it is of the same length as, or longer than, that one.

Punishment of behaviour amounting to funding terrorism falls currently within the concept of promoting or supporting a terrorist group, which is provided for in Section 300 (1) of the above-mentioned Portuguese Criminal Code.

The said provisions were inspired by the European Convention on the Suppression of Terrorism, concluded in Strasbourg in 1977, which Convention was incorporated into the Portuguese legal order by Act No. 19/81 of 18 August

It is important to stress that Portugal has already ratified 13 multilateral conventions on Terrorism, including –

- *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 14.09.63)
- *Convention for the Suppression of Unlawful Seizure of Aircraft* (Hague, 16.12.70)
- *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation* (Montreal, 23.09.71)
- *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, 23.09.1971)
- *Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Personnel (New York, 14.12.73).*
- *European Convention on the Suppression of Terrorism (Strasbourg, 27.01.77)*
- *International Convention Against the Taking of Hostages (New York, 17.12.79)*
- *Convention on the Physical Protection of Nuclear Materials* (Vienna, 03.03.80)
- *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation* (Rome, 10.03.88)
- *Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf* (Rome, 10.03.88)
- *UN Convention for the Suppression of Terrorist Bombing* (New York, 09.12.99)
- *Convention for the Marking of Plastic Explosives for the Purpose of Detection* (Montreal, 11.03.1991)
- *International Convention for the Suppression of the Financing of Terrorism* (New York, 09.12.99)

Under Article 8 of the Constitution of the Portuguese Republic, the rules provided for in international conventions that have been duly approved and ratified will, following their official publication in the Official Journal, apply in the Portuguese legal order, regardless of transposition or incorporation into statutory enactments pertaining to national law.

Furthermore, the Portuguese criminal law specifies other criminal behaviour usually linked to the terrorist activity, such as -

- aggravated murder of and inflicting unlawful wounding to members of the security forces and services, civil servants and prison guards (12 to 15 years' imprisonment);
- threats (prison sentence not exceeding 2 years) and coercion (1 to 5 years' imprisonment);
- the taking or attempted taking of the life of the President of the Republic (5 to 15 years' imprisonment);
- crimes against internationally protected persons (1 to 8 years' imprisonment);
- unlawful detention (prison sentence not exceeding 10 years), kidnapping (2 to 8 years' imprisonment, a term increased to between 8 and 16 years where the act results in the death of the victim) and hostage-taking (2 to 10 years' imprisonment, a term increased to between 8 and 16 years where the act results in the death of the victim);
- extortion (imprisonment for a maximum term of 5 years, a term increased to between 8 and 16 years where the act results in the death of the victim);
- manufacture, possession or use of banned weapons or explosives, release of toxic gases, radioactive substances, nuclear energy, radiation emissions (sentence which may increase to 15 years' imprisonment) and corruption of food or medicine (1 to 8 years' imprisonment)
- hijacking or seizure of aircrafts, ships or other means of public transport (sentence may increase to 15 years' imprisonment);
- sabotage and sabotage against national defence (imprisonment for a term of between 3 and 10 years);

- computer-related sabotage (sentence may increase to 10 years' imprisonment).

The application of the Portuguese criminal law is governed by the principles of territoriality, supplemented by those of defence of national interests and of nationality, the universal application of criminal law and the plurality of the commission of the crime.

Thus, the national criminal law is generally applicable to facts occurred in the Portuguese territory and, unless otherwise stated in an international treaty or convention, to facts occurred outside the national territory provided that such facts -

- constitute terrorist organisation crimes, crimes of terrorism, crimes against the security of the State or against the rule of law, *inter alia*;
- constitute crimes against peace, crimes of trafficking in human beings, kidnapping, slavery or servitude, destruction of monuments, *inter alia*, provided that the offender is found in Portugal; or
- against Portuguese by Portuguese who have their habitual residence in Portugal at the time the crime was committed and who are found in Portugal;
- by Portuguese, or by aliens against Portuguese nationals, where the offenders are found in Portugal, being punishable at the place of commission of the offence, and where the facts constitute a crime which allows extradition and the latter may not be granted;
- by aliens who are found in Portugal and whose extradition has been requested, when it is the case of crimes allowing extradition and the latter may not be granted.

As far as extradition is concerned[3], the Constitution of the Portuguese Republic enshrines an exceptional regime where crimes of terrorism are at issue; it is

[3] Portugal ratified the **European Convention on Extradition**, approved by the Assembly of the Republic by Resolution No. 23/89 of 21 August, as well as the **Additional Protocols to the Convention**, approved by the Assembly of the Republic by Resolution No. 23/89 of 21 August. Portugal is also a party to the**European Convention on Mutual Legal Assistance in Criminal Matters**, approved by the Assembly of the Republic by Resolution No. 39/94 of 14 July and has also ratified the **Additional Protocol to the Convention**, approved by the Assembly of the Republic by Resolution No. 49/94 of 12 August. Portugal has ratified the Convention on **simplified extradition procedure between the Member States of the European Union** by the President of the Republic's Decree No. 41/97 of 18 June. This Convention, concluded under Article K.3 of the EU Treaty, was signed in Brussels on 10-03-1995 and repeals the provisions of Article 18, paragraph 1 of the European Convention on Extradition.

provided therein that "*extradition of Portuguese citizens from the national territory shall be allowed, subject to reciprocity by virtue of an international convention, only in the cases of terrorism and international organised crime and provided that the legal order of the requesting State has made provision for safeguarding a fair and just trial*".

Extradition is allowed only in respect of offences punishable under the laws of the requesting State by deprivation of liberty or under a detention order for life or for an indeterminate term, subject to reciprocity pursuant to an international convention and provided that the requesting State gives assurance that such sentence or order will not be imposed or carried out.

To allow the Portuguese legal order to accept the new mechanisms currently being prepared by the European Union – the European arrest warrant and the subsequent surrender procedures in respect of citizens under arrest pursuant to such arrest warrants – Constitutional Act Nº 1/2001 of 12 December (5th amendment of the Constitution) included a new provision whereby "*the provisions of the foregoing paragraphs [described above] do not preclude the application of the rules of mutual legal assistance in criminal matters adopted within the European Union*". Nevertheless extradition on political grounds or for offences punishable under the law of the requesting State with the death penalty or any other penalty which results in irreversible harm to the physical integrity of the person claimed will not be granted.

A principle applies in the Portuguese legal order, according to which it falls to the State to try the person claimed when it is not allowed to grant his/her extradition; under Section 5 of the Criminal Code "*(1) (...) the Portuguese criminal law still applies to acts done outside its territory (...) (e) by aliens who are found in Portugal and whose extradition has been requested when such acts constitute offences for which extradition is allowed and such extradition may not be granted. (2) The Portuguese criminal law is also applicable to acts done outside the national territory, which acts will be tried by the Portuguese State by virtue of international convention or treaty.*"

Finally, it deserves being emphasised that a legislative procedure is under way which is designed to bring the domestic law in line with the Council Framework

Decision of 13 June 2002 on combating terrorism (2002/475/JHA) and the Council Framework Decision of 13 June 2002 on the European arrest warrant (2002/584/JHA).

In accordance with the legislation in force mentioned above, all relevant entities concur, in so far as national security is concerned, in the prevention and neutralisation of any attempts to use the national territory for the commission of preparatory or instrumental acts or crimes of terrorism, whether they target national or international interests.

III FINANCIAL AND ECONOMIC ASSETS FREEZE

Under the sanctions regime (paragraph 4(b) of resolution 1267 (1999) and paragraphs 1 and 2(a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

9. **Please describe briefly:**

   The domestic legal basis to implement the assets freeze required by the resolution above.

   Any impediments under your domestic law in this context and steps taken to address them.

   See Q. 2 above.

The Portuguese legislation prevents and punishes financial operations of laundering of funds derived from crimes of terrorism, under the national law into which was transposed the Council Directive (EC) No. 91/308 on prevention of the use of the financial system for the purpose of money laundering.

Therefore, the prevention of financing of terrorism is enshrined in the Portuguese law by reference by Decree-Law No. 325/95[4] to Decree-Law No.313/93[5], which imposes on the financial institutions a series of duties of information to and notification of judicial authorities as far as suspicious financial operations are concerned. The entities who engage in such activities as the exploration of gambling in casinos, estate agency, purchase of estate for resale, payment to winners of betting or lottery prizes, as well as the accountants, external auditors and funds carriers, notaries, registrars, all are covered by the national legislation, namely by Sections 4 to 8-C of Decree-Law No. 325/95.

Accordingly, pursuant to the combined provisions of Section 3 and Section 2 of Decree-Law No. 325/95, if it is suspected that certain financial operations involve the commission, regardless of the form of participation, of crimes of terrorism, such entities must comply with the duties specified below, and any breach thereof makes the offender (legal or natural person, as provided for in Section 19 of the said Decree-Law) liable to pay a fine (s. 24 to s. 26 of Decree-Law No. 313/93) and possibly other penalties such as disqualification from holding certain posts or the publication of the final decision (section 27 of Decree-Law No. 313/93):

- identification, in general or specifically, of the customer;
- identification of the true identity of the person on whose behalf his customer is actually acting;
- duty to refuse to carry out an operation;
- special duties of diligence, including the duty to obtain written information from his customer on the source and destination of the funds;
- maintenance for at least 5 years of records of transactions;
- special duty of collaboration with the judicial authority, which comprises the provision of information concerning assets, securities and deposits with a view to their confiscation, the identity of the person who disclosed the information will be kept confidential;

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[4] Decree-Law No. 325/95 of 2 December, as amended by Act No. 65/98 of 2 September, by Act No. 104/2001 of 25 August; by Decree-Law No. 323/2001 of 17 December; by Act No. 5/2002 of 11 January and by Act No. 10/2002 of 11 February, provides for **measures against laundering of funds and other assets derived from crimes**.

[5] Decree-Law No. 313/93 of 15 September transposes into the national legal order the Council Directive of 10 June 1991 **on prevention of the use of the financial system for the purpose of money laundering**(91/308/EEC).

- duty to refrain from effecting certain operations, which are likely to be linked to the commission of crimes;
- duty to report to the judicial authorities, which applies to the authorities responsible for the oversight of financial entities as well.

In the framework of the commitments accepted by Portugal as a Member of the Financial Action Task Force on Money Laundering (FATF), the national financial system complies with all procedures recommended by the Group to prevent the use of the national financial system for the purpose of terrorist funding.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qiaida or Taliban related financial networks, or those who provide support to them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

Producing information on counter-terrorism falls within the exclusive powers of the **Security Intelligence Service.**

The co-ordination and conduct of the investigation of crimes of terrorist conspiracy or terrorism is entrusted to the **Central Office for Investigation and Prosecution** [6] within the **Public Prosecution Service**; it examines and performs measures designed to liaise with other offices and departments, including the criminal police, for the purpose of reinforcing the simplification, rationality and effectiveness of procedures, and it undertakes studies on the nature, volume and trends of crime and the results of prevention, detection and control.

[6] The Central Office for Investigation and Prosecution is the authority responsible for the co-ordination and conduct of the investigation and for the prevention of highly organised or particularly complex violent crime as well, its membership is made up of Public Prosecutors.

Depending on the Public Prosecution, the investigation of crimes of terrorist organisation falls to the **Criminal Police**[7], more accurately to the Directorate General for Combat of Bandits.

On 13 December 2002, a **Financial Intelligence Unit** [8] was set up within the Criminal Police; its function is collecting, processing and relating information on conducts of a criminal nature, which is necessary for the prevention of or fight against money laundering and more serious fiscal offences (over €500,000), when they reveal a special complexity, an organised manner or cross-border character.

It is incumbent on this Financial Intelligence Unit to collect, centralise, process and disseminate, at the national level, information concerning the investigation of money laundering and fiscal offences; it secures, internally, the co-operation and liaison with the judicial authority, the supervisory authorities and the economic and financial agents and, internationally, the co-operation with the financial intelligence units or similar structures.

The Act on Internal Security enshrines a duty of co-operation between Security Forces and Services (National Republican Guard, the Safety Police, the Maritime Police, the Criminal Police, the Customs and Aliens Service, the Security Intelligence Service and the National Institute for Civil Aviation) demanding, particularly, the mutual transmission of data (provided that they are not under a special regime of privilege or protection) which, though not concerning solely the specific competence of the person who gets them, are necessary for the achievement of other entities' objectives.

The Security Intelligence Service, as a security service, co-operates with the other Security Forces and Services by transmitting to the entities responsible for the criminal investigation and the prosecution the facts amounting to a criminal offence which they have knowledge of in the performance of their duties, for the SIS does not have any criminal or judicial power.

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[7] Powers specified by the Act on Organisation of Criminal Investigation (Act No. 21/2000 of 10 August) and by the Organisational law of the Criminal Police (Decree-Law No. 275-A/2000 of 9 November).

[8] Decree-Law No. **304/2002 of** 13 December amending the Organisational law of the Criminal Police, approved by Decree-Law No. 275-A/2000 of 9 November.

Under the co-ordination of the **Security Coordinating Office**, an organ specialised in and for the technical and operational co-ordination of the activity carried out by the Security Forces and Services and which functions under the direction of the Prime Minister, through the Minister for Internal Affairs, it was set up, on 25 February 2003, the **Unit for Anti-Terrorism Co-ordination (UCAT)**; its function is to secure the co-ordination and the sharing of information within the framework of combating terrorism.

The UCAT is made up of representatives of the Security Intelligence Service, of the *Serviço de Informações Estratégicas de Defesa e Militares*[9] (Strategic Intelligence), of the Customs and Aliens Service as well as of the Criminal Police.

The measures adopted within the **European Union** in the context of the fight against terrorism were established by the Extraordinary European Council of 21 September 2001, a meeting held after the attacks of September the 11th and which called, expressly and for the first time, for the strengthening of the collaboration between the European intelligence services and between the latter and the police entities in combating terrorism.

Hence, the SIS takes part in an informal international structure of the European Intelligence Service, set up within the SIS multilateral relations in Europe, which is responsible for assessing the terrorist threat in the European Union and constitutes the interface between the security intelligence services and the European Union, the EUROPOL and the United States.

The SIS is represented, together with members of the other Security Forces and Services, in the ***Terrorism Working Group – TWG***, of the Third Pillar of the European Union, that implements such measures connected with Justice and Internal Affairs as are specified in the Plan of Action to Combat Terrorism, namely by putting

[9] The Defence and Military Strategic Intelligence Service is dependent on the Prime Minister through the Defence Minister, and entrusted with the production of information which contribute towards safeguarding the national independence, the national interests, external security of the Portuguese State, accomplishing the Armed Forces missions and ensuring the military security.

forward more effective mechanisms for police co-operation and participating in the drawing up of Community lists of terrorists and terrorist organisations.

In the framework of the Second Pillar of the EU, the SIS provides assistance to the Directorate General for Multilateral Affairs of the Ministry of Foreign Affairs, by participating, in its capacity as an expert, in the meetings of the group COTER, which deals with terrorist-related issues outside the EU.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities or agencies responsible for oversight.

See Q. 2 and Q. 9 above.

The law provides for an exception to the professional secrecy: the disclosure - by public or private financial entities (which covers their organs, directors, employees or principals) to the appropriate authorities - of information in good faith about suspicious financial operations and the production of the supporting documents in respect of assets, deposits or securities, and no accountability will result thereof for the person who provides such information.

Following the attacks of September 11th, the Finance Minister issued, on 11 October 2001, the executive decision mentioned in Q.2, whereby he ordered the freezing of all financial resources belonging to the persons or entities listed in the Annex to the Council Regulation (EC) No. 467/2001 of 6 March, as amended by Council Regulation (EC) No. 1354/2001 of 4 July, both relating to the Taliban.

In addition, Act No. 5/2002 was passed on 31 October 2001, providing for a special regime for the gathering of evidence (abrogation of tax confidentiality as well as

of secrecy imposed on financial entities, audio and video tape recording) and the confiscation of assets; it will be applied to such crimes as trafficking in drugs or weapons, corruption, money laundering, conspiracy and other forms of organised crime.

Systematically, the investigation of this type of crime means the investigation of financial transactions. The regime that has been adopted aims at accelerating the regime and making it operative, since banking secrecy and tax confidentiality have been lifted for that type of crime, where such means of investigation are most needed.

One of the changes refers to the power of the judicial authority, responsible for the conduct of the proceedings, to request for information. From now on, during the inquiry, the Public Prosecutor who conducts the investigation may request the financial entities and the tax authorities for any information needed. There will be a direct contact between the authorities who conduct the investigation and the financial entities, during the inquiry.

The said law also clarifies the procedure for handling requests for information, including as regards the response to be adopted by the financial entities. The latter must indicate the central organs responsible for the execution of the said requests, within the duties imposed on the financial entities in pursuance of the combined provisions of Decree-Law No. 325/95 and Decree-Law No. 313/93 (see Q. 9 above).

A new mechanism has been introduced into the Portuguese legal order for the investigation of crimes, that is, the control of bank accounts; moreover, it is also provided for in the Additional Protocol to the Convention on Mutual Legal Assistance in Criminal Matters[10] concluded between the Member States of the European Union. Such mechanism, which depends upon a court warrant, allows the investigating authorities to monitor the transactions on a bank account as they are carried out.

Finally, provision is made for the lawfulness of using voice and image recording [11], within the scope of the investigation of the said crimes, following a court warrant.

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[10] Ratified by the President of the Republic by Decree No. 64/94 of 12 August and approved by the Assembly of the Republic by Resolution No. 49/94 of 12 August, too.

[11] Under criminal law and procedure, such evidential means are admissible only with the consent of the person concerned; this requirement proved itself too restrictive for theinvestigation of the types of crimes covered by the law.

The Ministry of Finance, the Bank of Portugal, the Ministry of Justice, the Ministry of Internal Affairs and the Security Forces and Services collaborate in preventing, detecting and, if appropriate, investigating the crimes related to the matters specified above.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:**
    - **identification(s) of the person or entities whose assets have been frozen;**
    - **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
    - **the value of assets frozen.**

    Does not arise.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

    Does not arise.

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267(1999), States are to ensure that no funds, financial assets or**

economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**
- **Required bank reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as - or similar to - "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

See Q. 9 above.

IV TRAVEL BAN

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2b of resolution 1390(2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Security Intelligence Service collaborates with the Customs and Aliens Service in assessing the threats to the national security as regards the granting of visas, pursuant to the national law governing the entry, stay, exit and expulsion of aliens of the Portuguese territory; those organs have reinforced their watch over citizens coming from countries deemed to be dangerous as far as international terrorism is concerned.

In fact, the law provides for the hearing of the SIS, which will provide a technical opinion before the granting of visas in case of national security.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

See Q. 2 above.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

As often as the updating of the relevant information so requires.
Yes, since all our entry points are computerised.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

Does not arise.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa issuing authorities identified any visa applicant whose name appears on the List?

Does not arise.

V ARMS EMBARGO

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related material of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

As far as the prevention of arms sales to terrorists is concerned, it is important to mention that Portugal is a party to several international organisations which have as their objective the fight against the proliferation and criminal use of weapons.

Accordingly the Portuguese State complies with its international commitments, accepted in different *fora*, including the Nuclear Suppliers' Group (NSG), the Missile Technology Control Regime (MTCR), the Australia Group (Chemical and Bacteriological Weapons) and the Wassenaar Arrangement (Dual-use items other than those included in the preceding Groups) and complies with the EU law, namely the Council Regulation (EC) No. 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

As it was stated in Q. 2 above, it is important to remind that Act No. 11/2002 of 16 February makes it a criminal offence where anyone fails to comply with the financial or commercial sanctions imposed by UNSC Resolution or EU Regulation placing restrictions on the establishment or maintenance of financial or commercial relations with expressly identified States or other entities or individuals.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

Decree-Law No. 399/93 of 3 December transposes into the domestic law the provisions of the Council Directive of 18 June 1991 on control of the acquisition and possession of weapons (91/477/EEC).

Under Section 2 of the said Decree-Law, a European firearms pass – a document which enables its holder to possess and use one or more firearms in any Member State of the European Community, provided that s/he is authorised thereto by the Member State of destination - is granted to a person who has a licence or authorisation to use and carry a weapon, as well as to a person exempt from such requirement under the law.

Pursuant to the Regime on the Use and Possession of weapons, approved by Act No. 22/97 of 27 June, the granting of authorisations for the use and carrying of a defensive weapon[12] is restricted to those aged at least 21 who, concurrently, fulfil the following conditions -

> "*(a) Enjoy all civil and political rights;*
>
> *(b) Prove to need an authorisation for professional reasons or imperative circumstances of self-defence;*
>
> *(c) Do not have been subjected to detention orders nor convicted by a court of any crime specified in subsection (3), and do not have been convicted of any offence related to drugs or drunk driving;*
>
> *(d) Have submitted to a medical examination and to specific psycho-technical tests and tests of expertise and comply with their requirements, under the terms to be laid down by regulation.*
>
> *3. No authorisation shall be granted, as provided for in paragraph (c) of the foregoing subsection, in the case of the following crimes: murder, aggravated murder, qualified murder, murder at the request of the victim, assistance in or incitement to suicide, infanticide, manslaughter by the use of a weapon, serious assault, aggravated assault, ill-treatment or overburdening of a minor, incapable or spouse, participation in a riot*

[12] According to Section 2 (1) and (2) of the Regime on Possession and Use of Firearms, authorisations may be granted only in respect of the defensive weapons described below -
(a) Pistols with calibre not exceeding 6,35 mm inclusive, with a barrel not exceeding 8 cm;
(b) Revolvers with calibre not exceeding 7,65 mm (=32"), with a barrel not exceeding 10 cm»

or affray, threat by the use of a firearm, unlawful detention, slavery, kidnapping, hostage-taking, sexual intimidation, rape, sexual assault on a person unable to resist, sexual assault on an in-patient, trafficking in persons, encouraging another to commit indecent assault, sexual exploitation of children, sexual exploitation of juveniles and dependants, homosexual acts with minors, enticing or compelling a minor for sexual purposes, theft, violence after stealing, genocide, racial discrimination, war crimes against civil population, arson, explosion, and other particularly dangerous conducts, torture and other inhuman, cruel or degrading treatment, explosive substances or similar substances and weapons, hijacking or seizure of an aircraft, ship or train, endangering the safety of air, sea or railway passengers, conspiracy, terrorist organisations and terrorism."

The renewal of authorisation for the use and possession of a defensive weapon is conditional on the requirements specified above being fulfilled as well as on the passing of the specific examinations.

Under the law, an authorisation may be immediately withdrawn if the weapon is being used for a purpose other than that for which it was intended; if its owner is found guilty when his weapon has been stolen or diverted, or when the weapon has been handled by a minor.

As regards hunting, precision or sports weapons, authorisations may be granted to those who enjoy all civil and political rights, have not been subjected to any detention order or convicted by a court of any crime specified above and have submitted to a medical examination and to appropriate psycho-technical tests and specific expertise tests.

Finally, it is important to stress that, under section 6 of the Regime on the Use and Possession of Weapons, anyone who is found in possession of a defensive or hunting weapon without a certificate, or without it being registered, or anyone who transfers, by any means, a weapon to a person who is not duly authorised to carry one,

shall be punished with imprisonment for a maximum term of 2 years or with a fine for a maximum of 240 days.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

Matters connected with defence arms and equipment are the responsibility of the Directorate General for Defence Armaments and Equipment (DGAED), of the Ministry of Defence; it is incumbent on the DGAED to authorise and monitor the industry and trade of Military Items and Technology (Armaments) with a view to safeguarding the strategic interests of the country, the defence thereof and the commitments that Portugal has accepted as a Member of the European Union and those imposed by the international organisations wherein Portugal participates.

According to the Portuguese law governing the export of items and technology for military use, the execution of orders for war material, ammunitions and equipment must be submitted to the Defence Minister who will decide thereupon, as well as to the opinion of the Ministry of Foreign Affairs (Decree-Law No. 371/80 of 11 September)

As regards export of items produced in Portugal, imported previously or those in transit through the Portuguese territory, the Defence Ministry is empowered by the law to ban the export thereof when it would otherwise be likely to compromise the interests of the Portuguese State (Decree-Law N°1/86 of 2 January).

The Ministers for Defence, Internal Affairs, Finance, Foreign Affairs, Industry and Energy, Trade and Tourism adopted by an Order[13] a list of dual-use items, military-use items and technology, the production and trade whereof, since they may harm the national strategic interests, are subjected to prior authorisation and certification by the Directorate General for the Customs Service and Excise Duty (DGAIEC) of the

[13] Decision No. 439/94 of 29 June, approved pursuant to **DecreeLaw No. 436/91 of 8 November.**

Ministry of Finance and by the Directorate General for Defence Armaments and Equipment.

In the framework of counter-proliferation, it falls to the Inter-ministerial Commission for the Trade in Strategic Items to decide on the individual assessment of the need for an authorisation to be granted in respect of any dual-use items other than those specified in the said list.

The access by undertakings to the manufacture and trade of arms requires the Defence Minister's authorisation, according to the regime laid down by Decree-Law No. 396/98 and Decree-Law No. 397/98, both of 17 December; such authorisation will be granted only where the following requirements are fulfilled:

(a) Adequacy and sufficiency of human resources with regard to the intended objectives;
(b) Adequacy and sufficiency of the technical means and financial resources for carrying out the activity;
(c) Qualification and integrity of the entrepreneurs, partners and members of the social bodies;
(d) National security credentials granted by the National Security Authority.

In addition to the national legislation referred to above, Portugal accepted the European Union Code of Conduct, which sets up a mechanism for consultation and exchange of information on the export of conventional arms.

Furthermore, Portugal is a party in the framework of the following international instruments:

- **Wassenaar Arrangement,** concluded in December 1995, aims to promote transparency in the transfer of conventional arms, dual-use items and technology, thereby preventing any situation which might endanger the security and stability at regional and international levels.
- **Missile Technology Control Regime (MTCR),** established in 1987, aims to bar the proliferation of missiles and unmanned air vehicles

capable of delivering weapons of mass destruction, as well as their equipment and associated technologies.

- **Convention on Prohibition of Chemical Weapons,** an international legal instrument which aims at suppressing chemical weapons within 10 to 15 years, by dismantling factories and neutralising older and recent stocks capable of polluting the environment.
- **Convention on Prohibition or Limitation of the use of certain weapons capable of causing traumatic effects in excess**, its Protocol II regulates the prohibition or limitation of the use of mines, booby-traps and other similar devices.

VI ASSISTANCE AND CONCLUSION

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Portugal has availed itself of its contacts with third countries, both at multilateral and bilateral levels, to systematically raise awareness to the need for further developing international co-operation in this field.

At the time of some bilateral visits, that issue was included in the agenda, and it is worth mentioning, on the multilateral and regional level, the Extraordinary Summit on Terrorism, held on the initiative of Portugal and attended by the Ministers for Foreign Affairs of the countries of the Mediterranean Forum (24-25/10/01, in Aghadir).

The importance of signing, ratifying and implementing the international Conventions, as well as the value added by the Global Convention once adopted, have been particularly stressed during the said contacts following the 11 September.

Portugal has availed itself of its special relationship with the Portuguese-speaking countries, including in the more institutional framework of the Community of Portuguese-speaking Countries (CPLP), to make an appeal in that sense. The

Declaration of the CPLP on Combating International Terrorism of 31/10/01 illustrates such commitment.

Portugal has expressed its willingness to assist in the transposition of international legislation in this field into the national laws by the sharing of information, co-operation between the sectoral Ministries or by other means to be agreed upon.

Therefore, Portugal has made available the Portuguese version of the UN Conventions on Terrorism; it has undertaken co-operative actions in matters of good governance, justice and internal affairs in view of the importance they represent to this common fight.

Some of those States have found in the Portuguese experience an example to use in drawing up their reports to submit to the UN and, on the domestic level, in the preparation of measures applicable in the fight against international terrorism.

In the framework of the bilateral relations between the EU and third countries, Portugal took part in the exercise of diplomatic persuasion, as agreed in the EU; Portugal kept a regular dialogue with those countries, while it held the Presidency of the Council of the EU, as regards both the steps concerning the Conventions and the assessment of the degree of commitment of the third countries to the fight against international terrorism.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

We have no further comments to make.

26. Please include any additional information you believe pertinent.

These subjects were already included in the national report to the UNSC *Counter-Terrorism Committee* pursuant to paragraph 6 of Resolution 1373 (2001).

United Nations S/AC.37/2003/(1455)/52

Security Council

Distr.: General
23 June 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 23 June 2003 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Chairman of the Committee

The Permanent Representative of the Principality of Liechtenstein to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit herewith the report of Liechtenstein prepared in accordance with paragraph 6 of Security Council resolution 1455 (2003) (see annex).

03-40506 (E) 020703

Annex to the note verbale dated 23 June 2003 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Chairman of the Committee

Report of Liechtenstein to the Security Council Committee established pursuant to resolution 1267 (1999)

I. Introduction

In resolution 1455 (2003), paragraph 1, the Security Council decided to "*improve the implementation of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002)*", directed against members of the Taliban and the Al-Qaida organization as well as persons, groups, enterprises, and installations connected with them. In paragraph 6, all States are called upon to "*submit an updated report to the Committee no later than 90 days from adoption of this resolution on all steps taken to implement the measures referred to in paragraph 1 above and all related investigations and enforcement actions, including a comprehensive summary of frozen assets of listed individuals and entities within Member State territories, unless to do so would compromise investigations or enforcement actions*".

Liechtenstein submits the following report pursuant to paragraph 6 of resolution 1455 (2003). The report is structured according to the list of questions compiled by the Committee for this purpose.

Liechtenstein has previously submitted several reports that are relevant in this context. With regard to specific areas reference will be made to the detailed explanations in these reports:

- Report to the 1267 Committee of 24 June 2002 (S/AC.37/2002/67),
- 1st report to the CTC of 21 December 2001 (S/2001/1253),
- 2nd report to the CTC of 18 July 2002 (S/2002/788),
- 3rd report to the CTC of 3 March 2003 (S/2002/273).

Some general information on Liechtenstein will first be presented in order to facilitate understanding of the specific answers to the questions of the Committee that follow.

Liechtenstein is home to a highly developed financial center. The instruments for regulating and supervising the financial center are in line with the relevant international standards. Various evaluations and assessments — for example by the Financial Action Task Force (FATF); MONEYVAL, the expert committee of the Council of Europe on money laundering; and the International Monetary Fund and the World Bank — have corroborated this high quality. The relevant legal structure is characterized by the vicinity of the two neighboring States Switzerland and Austria: While criminal law and criminal procedure are modeled on Austrian law, administrative law provisions on due diligence are based on the Swiss example. Private law (in particular the creation of foundations, establishments, trusts, etc.), however, is genuine Liechtenstein law. Liechtenstein maintains a particularly close relationship with Switzerland through their currency and customs union as well as other bilateral treaties on law enforcement cooperation. Liechtenstein has also

adopted the Swiss legal framework concerning foreigners and domicile, and it relies on the Swiss federal authority (Swiss Federal Office for Immigration, Integration and Emigration of the Federal Department of Justice and Police) for enforcement of this law. Also relevant in this context is the membership of Liechtenstein in the European Economic Area (EEA), which entails harmonization with European developments especially in the area of economic legislation.

After the approval by the Government on 9 May 2003 the Liechtenstein Parliament (Landtag) is considering a comprehensive legislative package on combating terrorism. It includes, inter alia, a series of adjustments of criminal law provisions and the Due Diligence Act. The relevant legislative amendments are annexed to this report in English translation and were explained in the second report to the CTC (paragraphs 6-10) and in the third report to the CTC (paragraphs 3-5).

In connection with the consideration of this package Parliament approved already on 15 May 2003 the ratification of the Convention for the Suppression of the Financing of Terrorism, the last remaining convention in this area. The deadline for requesting a popular referendum is 23 June 2003. This international legal instrument will then enter into force for Liechtenstein on the 30th day after deposit of the instrument of ratification in accordance with article 26 paragraph 2 of the Convention.

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

The manageable size of the country turns out to be an advantage with regard to aspects of combating terrorism: It is practically impossible to stay in the territory of Liechtenstein for a prolonged period of time without the knowledge of the authorities. Terrorists are neither harbored nor recruited in Liechtenstein. In particular, there have been no direct activities by Usama Bin Laden, Al-Qaida, or the Taliban. The greatest threat for Liechtenstein lies in the danger of abuse of the financial center for the financing of terrorism. The Government does not accept any such abuse and is determined to prevent, by all legal means, that terrorist activities are aided or abetted. This is ensured by means of an extensive legislative framework, close international cooperation, and effective implementation of the relevant UN resolutions.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administration structure, including financial supervision, police, immigration control, customs and consular authorities?

The list is implemented in Liechtenstein through the Ordinance of 10 October 2000 on Measures concerning Persons and Organizations connected with Usama bin Laden, the "Al-Qaida" Group, or the Taliban, Liechtenstein Legal Gazette (Landesgesetzblatt, LGBl.) 2000 No. 186, the so-called "Taliban Ordinance". By means of this ordinance, which is continuously updated with the most recent persons and entities listed by the Security Council, all assets of these persons and entities that are subject to Liechtenstein jurisdiction are frozen by force of law. Financial institutions are required to notify the Government accordingly. The relevant

professional associations continuously receive the most recent lists in electronic format. In October 2001, the Coordination Task Force on Terrorist Financing was established for operative coordination (see organizational chart in the Annex). In particular, this task force encompasses the supervisory authorities, the law enforcement authorities (Office of the Public Prosecutor and the police), and the Office of Foreign Affairs. In addition, the Government Legal Services and representatives of the Justice Ministry are regularly included. Immigration authorities are represented by the police, who monitor implementation in Liechtenstein of decisions made in Switzerland in this area, together with the Liechtenstein Immigration and Passport Office. The functions of the customs authority are exercised by the Swiss corps of border guards (see part IV below on travel ban).

Further information concerning this question may be found in the report to the 1267 Committee mentioned above (paragraphs 3-6) and in the first report to the CTC (paragraphs 11 and 43-45).

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

Implementation has generally been unproblematic, and cooperation with the financial center has been good. Unambiguous identification of natural persons and legal entities on the continuously updated list of the Sanctions Committee has, however, created some difficulties. In the case of natural persons, it is often not possible to freeze accounts without a date of birth. In addition, some of the aliases listed give rise to confusion. In the case of legal entities, executing authorities and financial institutions depend on the proper spelling of the names of the entities. Otherwise, unambiguous identification and therefore the freezing of accounts are again not possible. Similar difficulties have already been noted in the past with regard to other sanction measures of the Security Council targeting individuals and entities.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

In total, six of these entities have been located in Liechtenstein. The corresponding assets have been frozen by force of law pursuant to the Taliban Ordinance (see question 2); in all cases, the relevant financial institutions have notified the Government. Information on these cases was submitted to requesting authorities pursuant to legal assistance requests. Moreover, a domestic prosecution and the necessary legal steps pertaining to financial supervision have been initiated.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

No such names are known that are not already on the list.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

The listed entities have undertaken no legal steps against the Liechtenstein authorities.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No such persons have been identified in Liechtenstein.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

In the framework of the counterterrorism package, Liechtenstein intends to introduce the criminal offense of "terrorist group" (§ 278b of the Criminal Code). The inclusion of this offense will criminalize mere participation in a terrorist group as a member. Whoever recruits other persons for terrorist purposes likewise commits a criminal offense according to § 278b paragraph 2, as indicated also in the explanations of the Government on the legislative proposal. Independently of this legislative amendment, existing law already considers the recruitment of terrorists as aiding and abetting or even as perpetration of actual terrorist activities such as kidnapping, blackmail, etc.

As already mentioned under question 1, the greatest danger of terrorist activities that may affect Liechtenstein lies in the possibility of support activities. These relate to the financing of terrorist activities, the subject of the following chapter of this report.

III. Financial and Economic Assets Freeze

9. Please describe briefly: the domestic legal basis to implement the asset freeze required by the resolutions above; any impediments under your domestic law in this context and steps taken to address them.

As already indicated under question 2, the list of the 1267 Committee is implemented in Liechtenstein by means of the Taliban Ordinance. This ordinance forms the legal basis for freezing all assets of the listed entities by force of law. No legal or factual obstacles to implementation of the ordinance exist; however, the difficulties concerning precise identification of some persons or entities as explained under question 3 are again relevant in this context.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama Bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The identification of finance networks of terrorist groups represents an enormous challenge. First and foremost, it requires intense, efficient, and comprehensive national (internal) and international cooperation and corresponding information exchange. Internal coordination in Liechtenstein for this purpose is undertaken by the Task Force on Terrorist Financing (see question 2; further information on the Task Force may be found in paragraph 18 of the second report to the CTC and in the Annex to this report). Internationally, this cooperation is undertaken directly on the one hand between various partner authorities, such as from FIU to FIU, public prosecutor to public prosecutor, and financial supervisory authority to financial supervisory authority. On the other hand, exchange takes place through active membership in various international expert organizations, in particular the Council of Europe (membership of the FIU in the bureau of MONEYVAL), the Egmont Group (a coordination group of 69 FIUs worldwide), and through expert activities for FATF, MONEYVAL, and the IMF/World Bank. The police maintains its own networks, bilateral cooperation treaties, and regional cooperation agreements.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama Bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities or agencies responsible for the oversight.

All financial intermediaries falling within the scope of the Due Diligence Act (banks, trustees, attorneys, insurance companies, investment companies, the postal service, exchange offices, etc.) are required to identify each client by means of an unambiguous, official and conclusive document. Moreover, the beneficial owner of the asset must be disclosed. A profile on each client must be compiled, describing in particular the assets and the general circumstances of the client and enabling an actual profiling. The financial intermediary is then legally required to continuously monitor the business relationship, if necessary by obtaining additional information from the client and documenting these inquiries in writing. These due diligence requirements in the narrow sense are monitored by a supervisory authority established specifically for this purpose, the Due Diligence Unit.

Every financial intermediary is required to submit a Suspicious Activity Report (SAR) to the FIU in case of suspicion of money laundering, predicate crimes of money laundering, or organized crime. This requirement also applies in cases of suspicion of terrorist groups or financing of terrorism, in analogous application of article 9 paragraph 2 of the Due Diligence Act. Soon, this practice will also be explicitly enshrined in the legislative text itself by means of the counterterrorism package.

The Due Diligence Unit and the FIU publish joint directives on improved identification of suspicious transactions and business relationships (indicator lists). Non-compliance with these legal obligations leads to administrative or criminal sanctions. In addition to fines, it is of particular note in this context that licenses to operate as a financial intermediary may be revoked in extreme cases.

Further information on the due diligence obligations of financial intermediaries may be found in the first report to the CTC (paragraphs 29, 30, 39, and 43-45), in the second report to the CTC (paragraphs 4, 5, 11, and 12), and in the third report to the CTC (paragraph 2).

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of assets frozen.**

The bank accounts of two entities with a total value of 182,000 Swiss francs have been frozen. This amount may appear to be small at first glance. However, the amount is understandable when the following fundamental remarks on the Liechtenstein financial center are taken into account:

The Liechtenstein financial center is essentially an offshore financial center. This means that the financial sector primarily caters to company structures. Asset management, trusts, etc., and the requisite bank accounts and activities are conducted in their name, often beyond the borders of Liechtenstein. For this reason, companies registered in Liechtenstein that are affected by sanctions do not in every case hold assets classifiable as located in Liechtenstein.

Moreover, the findings of the Financial Intelligence Unit indicate that cases of money laundering in Liechtenstein only occur in the second and third phases, i.e., in the phases of disguising assets and integrating them into legal economic circulation. Typically, these phases are characterized by mediator structures conducted through attorney and trustee offices, asset managers, etc., so that the determination of the actual beneficial owner necessitates enormous effort and lengthy investigations. In order to combat this phenomenon, Liechtenstein has in recent years increasingly integrated itself into an institutionalized international relationship network.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or

entities. If so, please provide reasons, amounts unfrozen or released and dates.

Liechtenstein has so far released none of these frozen assets.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Through the appropriate professional associations, the financial intermediaries are kept informed about the ongoing adjustments of the Taliban Ordinance. The financial intermediaries undergo continuous training, as required by the provisions of the Due Diligence Act. Monitoring of in-company implementation is ensured by the Due Diligence Unit and relevant audits.

Every financial intermediary is required to submit Suspicious Activity Reports to the FIU, if suspicion of money laundering, predicate crimes of money laundering, or organized crime arises in the course of the business relationship. The FIU analyzes these reports and decides whether to forward them to the Office of the Public Prosecutor for initiation of investigation or prosecution. Details on the evaluation may be found in the annual report of the FIU (2001 and 2002, just published on 2 April 2003, see Annex).

In the framework of a further revision of the Due Diligence Act to incorporate the 2nd EU Directive on Money Laundering, the already broad scope of application of

the Act will be extended to include the trade in valuables. This legislative amendment will be undertaken in accordance with the EU timetable. The amendment will be introduced after parliamentary consideration and adoption, likely not before 2004.

Liechtenstein is not a cash economy. Alternative remittance systems are as of yet unknown. In any case, such activities would require approval by the competent authority.

For further information on this cluster of questions, see question 11 above, as well as the first report to the CTC (paragraphs 36-45), the second report to the CTC (paragraphs 4, 5, 11, and 12), and the third report to the CTC (paragraph 2).

IV. Travel Ban

As a general matter, the Customs Treaty with Switzerland of 29 March 1923 is relevant in connection with the question of the travel ban (IV) and the arms embargo (V). The provisions of the Customs Treaty stipulate that the entirety of Swiss customs legislation is applicable to Liechtenstein, as well as those provisions of Swiss federal law that are relevant to the implementation of the customs union. For the implementation of United Nations sanctions affecting immigration and customs matters, this entails that the legal situation in Liechtenstein cannot be considered separately from the Swiss situation, and that the implementation of these provisions is undertaken in cooperation between Swiss and Liechtenstein authorities.

Liechtenstein legislation on the implementation of sanctions is currently undergoing detailed review. The Government has appointed a working group mandated to submit a report on revision of the implementation of all sanctions by 1 September 2003. The group discusses, inter alia, the creation of a central coordinating body for a more efficient implementation of financial sanctions and the need for revision of the internal legal basis of economic sanctions.

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Swiss immigration provisions apply to entry into and transit through Liechtenstein. In particular, Swiss law concerning passport and visa requirements applies. Liechtenstein accordingly does not issue visas without the consent of the competent Swiss authority in the Federal Department of Justice and Police. In accordance with this logic, the implementation of immigration provisions and therefore of the entry and transit prohibitions mandated by the cited resolutions is the responsibility of the Swiss border control authorities. Further information on this question may be found in the first report to the CTC (paragraph 61).

16. Have you included the names of listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

The answer to these questions falls within the scope of responsibility of the Swiss border control authorities (see question 15).

V. Arms Embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The Swiss Federal War Materiel Act of 13 December 1996, which is applicable in Liechtenstein, and the ordinances implementing it are of primary legal relevance in this context. Article 7 of the Act prohibits the development, production, procurement, purchase, import, export, transit, and stockpiling of nuclear, biological, or chemical weapons, as well as contributory acts. This provision is also applicable to offenses committed abroad, if the perpetrator is a Liechtenstein citizen or is resident in Liechtenstein. The Swiss State Secretariat for Economic Affairs is responsible for enforcement of the Act. Export control is likewise the responsibility of Swiss federal authorities, pursuant to the customs union with Switzerland. In addition, the Swiss Embargo Act, which entered into force on 1 January 2003, is applicable in Liechtenstein, to the extent that it is relevant to areas covered by the Customs Treaty (sale of commodities and armaments, restrictions on the movement of persons).

This regulatory framework is supplemented by the Liechtenstein Ordinance on the Procurement of War Materiel, LGBl. 1999 No. 185. The procurement of nuclear, biological, and chemical weapons and of anti-personnel mines is prohibited. The procurement of other weapons must be approved by the Government. Compliance with the ordinance is monitored by the National Police.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

Violations of the arms embargo are punished as infringements of article 4 of the Law on Measures concerning Economic Transactions with Foreign States with a fine of up to one million Swiss francs, in accordance with article 1 in connection with article 6 of the Taliban Ordinance (e.g., for procurement, technology transfer, or technical support). The fine is without prejudice to further penal provisions of the Swiss war materiel and commodities control legislation applicable in Liechtenstein

pursuant to the Customs Treaty (especially concerning export), which specify maximum sentences of up to ten years imprisonment in serious cases.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

The relevant licensing systems are governed by the Swiss war materiel and commodities control legislation (with respect to import, export, transit, trade and manufacture), as well as in the Liechtenstein Ordinance on the Procurement of War Materiel with respect to the procurement, foreign trade, and transfer of incorporeal rights and know-how. Basic licensing in accordance with this ordinance is conditioned upon requirements such as the guarantee of proper management, and the license may also not result in damage to national interests. In addition, individual approval must be obtained for specific transactions, conditioned upon compliance with international law, international obligations, and the interests of Liechtenstein foreign policy. The applicant must present all essential information concerning the transaction and is above all obligated to verify the identity of the contracting party, in conjunction with comprehensive information, accounting, and due diligence duties. In the case of an arms embargo imposed by the Security Council, the granting of a license is precluded.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

Neither weapons nor ammunition are produced in Liechtenstein.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other states to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details and proposals.

Liechtenstein is willing to provide assistance through expertise, in particular in the areas of legislation, due diligence and organization of authorities (FIUs, executing authorities). A list to this effect has been made available to the CTC which also applies in this context.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

Already in the wake of the events of 11 September 2001, Liechtenstein identified remaining gaps in its legal prevention framework and elaborated appropriate proposals. This counterterrorism package (see introduction), currently being considered by Parliament, aims to fill these gaps and offer the necessary legal foundations to take more effective action against terrorism and its financing.

Annexes*

Organizational chart of the Coordination Task Force on Terrorist Financing

Annual reports of the FIU, 2001 and 2002

Counter-terrorism Package

* The annexes referred to in the report are on file with the secretariat, room S-3055, and are available for consultation.